



Office of the Comptroller of the Currency

12 CFR Parts 3, 4, and 52

Docket ID OCC-2020-0044

RIN 1557-AF06

FEDERAL RESERVE SYSTEM

12 CFR Parts 208, 211, 212, 217, 225, 235, and 238

Docket No.R-1731

RIN 7100-AG01

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 304, 324, 337, 347, and 348

RIN 3064-AF67

Temporary Asset Thresholds

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

ACTION: Interim final rule, request for public comment.

SUMMARY: To mitigate temporary transition costs on banking organizations related to the coronavirus disease 2019 (COVID event), the OCC, Board, and the FDIC (together, the agencies) are issuing an interim final rule to permit national banks, savings associations, state banks, bank holding companies, savings and loan holding companies, and U.S. branches and agencies of foreign banking organizations with under \$10 billion in total assets as of December 31, 2019, (community banking organizations) to use asset data as of December 31, 2019, in order to determine the applicability of various regulatory asset thresholds during calendar years 2020 and 2021. For the same reasons, the Board is temporarily revising the instructions to a number of its

regulatory reports to provide that community banking organizations may use asset data as of December 31, 2019, in order to determine reporting requirements for reports due in calendar years 2020 or 2021.

DATES: *Effective date:* This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

Comment date: Comments must be received on or before [INSERT 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

ADDRESSES: Comments should be directed to:

OCC: You may submit comments to the OCC by any of the methods set forth below.

Commenters are encouraged to submit comments through the Federal eRulemaking Portal, if possible. Please use the title “Temporary Asset Thresholds” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- ***Federal eRulemaking Portal—Regulations.gov Classic or Regulations.gov Beta***

Regulations.gov Classic: Go to <https://www.regulations.gov/>. Enter “Docket ID OCC-2020-0044” in the Search Box and click “Search.” Click on “Comment Now” to submit public comments. For help with submitting effective comments, please click on “View Commenter’s Checklist.” Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.

Regulations.gov Beta: Go to <https://beta.regulations.gov/> or click “Visit New Regulations.gov Site” from the Regulations.gov classic homepage. Enter “Docket ID OCC-2020-0044” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or click on the document title and click the “Comment” box on the top-left side of the screen. For help with submitting effective comments, please click on “Commenter’s Checklist.” For assistance

with the Regulations.gov Beta site, please call (877)-378-5457 (toll free) or (703) 454-9859 Monday-Friday, 9am-5pm ET or e-mail to regulations@erulemakinghelpdesk.com.

- **Mail:** Chief Counsel's Office, Attn: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW., suite 3E-218, Washington, DC 20219.
- **Hand Delivery/Courier:** 400 7th Street, SW., suite 3E-218, Washington, DC 20219.

Instructions: You must include "OCC" as the agency name and "Docket ID OCC-2020-0044" in your comment.

In general, the OCC will enter all comments received into the docket and publish the comments on the Regulations.gov website without change, including any business or personal information provided such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by the following methods:

- *Regulations.gov Classic or Regulations.gov Beta:*

Regulations.gov Classic: Go to <https://www.regulations.gov/>. Enter "Docket ID OCC-2020-0044" in the Search box and click "Search." Click on "Open Docket Folder" on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on "View all documents and comments in this docket" and then using the filtering tools on the left side of the screen. Click on the "Help" tab on the Regulations.gov home page to get information on using Regulations.gov. The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Regulations.gov Beta: Go to <https://beta.regulations.gov/> or click “Visit New Regulations.gov Site” from the Regulations.gov classic homepage. Enter “Docket ID OCC 2020-0044” in the Search Box and click “Search.” Click on the “Comments” tab. Comments can be viewed and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen. Supporting Materials can be viewed by clicking on the “Documents” tab and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen. For assistance with the Regulations.gov Beta site please call (877) 378-5457 (toll free) or (703) 454-9859 Monday-Friday, 9am-5pm ET or e-mail regulations@erulemakinghelpdesk.com. The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Board: You may submit comments, identified by Docket No. R-1731 and RIN No. 7100-AG01, by any of the following methods:

- **Agency Web Site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- **E-mail:** regs.comments@federalreserve.gov. Include docket number and RIN in the subject line of the message.
- **Fax:** (202) 452-3819 or (202) 452-3102.
- **Mail:** Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board’s Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons or to remove sensitive PII at the commenter’s request. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments on the notice of proposed rulemaking using any of the following methods:

- **Agency Web Site:** <https://www.fdic.gov/regulations/laws/federal>. Follow the instructions for submitting comments on the agency website.
- **Email:** comments@fdic.gov. Include RIN 3064-AF67 on the subject line of the message.
- **Mail:** Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC. 20429.
- **Hand Delivery:** Comments may be hand delivered to the guard station at the rear of the 550 17th Street N.W. building (located on F Street) on business days between 7 a.m. and 5 p.m.
- **Public Inspection:** All comments received, including any personal information provided, will be posted generally without change to <https://www.fdic.gov/regulations/laws/federal>.

FOR FURTHER INFORMATION CONTACT: OCC: Alison MacDonald, Special Counsel, or Kevin Korzeniewski, Counsel, Chief Counsel's Office, (202) 649-5490.

Board: Juan Climent, Assistant Director, (202) 872-7526, Eric Kennedy, Assistant Director, (202) 263-4887, Nancy J. Oakes, Manager, (202) 452-3413, Teresa Scott, Manager, (202) 973-6114, Naima Jefferson, Lead Financial Institution Policy Analyst, (202) 912-4613, Daniel Newman, Senior Data Governance Analyst, (202) 973-7409, Senait Kahsay, Senior Financial Institution Policy Analyst II, (202) 245-4209, Joseph Willcox, Senior Financial Institution Policy Analyst II, (202) 452-3663, Division of Supervision and Regulation; Laurie Schaffer, Deputy General Counsel (202) 452-2272, Benjamin McDonough, Associate General Counsel, (202) 973-7432, Jonah Kind, Counsel (202) 452-2045, Justyna Bolter, Senior Attorney (202) 452-2686, Christopher Danello, Attorney, (202) 736-1960, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For users of Telecommunication Device for the Deaf (TDD), (202) 263-4869.

FDIC: Rae-Ann Miller, Associate Director, Risk Management Policy, (202) 898-3898, Bobby R. Bean, Associate Director, Capital Markets, (202) 898-6705; William Piervincenzi,

Supervisory Counsel, (202) 898-6957, Nefretete A. Smith, Counsel, (202) 898-6851, Michael B. Phillips, Counsel (202) 898-3581, Jennifer M. Jones, Counsel, (202) 898-6768, jennjones@fdic.gov, Supervision and Legislation Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (800) 925-4618.

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I. Background

In light of strains in economic conditions related to the COVID event and stress in U.S. financial markets, the agencies have taken a number of actions intended to: (i) restore market functioning and support the flow of credit to households, businesses, and communities and (ii) increase flexibility and reduce regulatory reporting burden. Among those actions, the

agencies have issued a number of rules and supervisory guidance communications designed to mitigate the consequences of the COVID event and to facilitate the safe and effective operations of banking organizations.¹

Community banking organizations have played an instrumental role in the nation's financial response to the COVID event, and many have experienced significant balance sheet growth as a result of the COVID event and the policy response to the event. Policies encouraging banks to work with their customers, such as the Small Business Administration's (SBA's) Paycheck Protection Program (PPP)² and the interagency statement encouraging financial institutions to work with borrowers affected by the COVID event,³ have resulted in much-needed emergency liquidity being offered to small businesses, including, but not limited to, individuals operating sole proprietorships or acting as independent contractors, certain franchisees, nonprofit corporations, veterans organizations, Tribal businesses, and households. As a result, during the COVID event many community banking organizations have experienced an unexpected and sharp increase in assets, swelling their balance sheets in some cases by more

¹ See "Supervisory and Regulatory Actions in Response to COVID-19," available at <https://www.federalreserve.gov/supervisory-regulatory-action-response-covid-19.htm>.; "COVID-19 (Coronavirus)," available at <https://occ.gov/topics/supervision-and-examination/bank-operations/covid-19-information/convid-19-info-index.html>; "Coronavirus (COVID-19) Information for Bankers and Consumers," available at <https://www.fdic.gov/coronavirus/>. See also "The FDIC Approves Interim Final Rule to Provide Temporary Relief from Part 363 Audit and Reporting Requirements," available at <https://www.fdic.gov/news/financial-institution-letters/2020/fil20099.html> and Final Rule Mitigating the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Liquidity Facility, and the Money Market Mutual Fund Liquidity Facility at <https://www.fdic.gov/news/financial-institution-letters/2020/fil20063.html>.

² The SBA's PPP was created under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) in response to market distress caused by the COVID-19 event. Pub. L. 116-136, 134 Stat. 281.

³ "Revised Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus" (Apr. 7, 2020), available at <https://www.occ.gov/news-issuances/news-releases/2020/nr-ia-2020-50a.pdf>.

than 25 percent.⁴ Much of this growth, particularly that related to participation in PPP, is expected to be temporary.

PPP loans are a special asset class of government-guaranteed assets designed to incentivize businesses to keep workers on payroll. To encourage lending to small businesses through the SBA's PPP, the Board established the PPP Liquidity Facility on April 9, 2019.⁵ Under the PPP Liquidity Facility, each of the Federal Reserve Banks may extend non-recourse loans to banking organizations that pledge PPP loans, which continue to be assets on the balance sheets of banking organizations, as collateral.⁶ The last day for lenders to make a PPP loan was August 8, 2020,⁷ and depending on SBA determinations, a significant amount of PPP debt forgiveness may occur in the fourth calendar quarter of 2020 or early in the first calendar quarter of 2021. However, as a result of the PPP loan forgiveness process, many PPP-related assets remain on community banking organizations' balance sheets. The SBA recently released a simpler loan forgiveness application for PPP loans of \$50,000 or less, which will likely result in PPP-related assets being removed from community banking organization's balance sheets at a faster rate.⁸

According to SBA statistics, collectively all lenders with less than \$10 billion in assets originated 2,745,204 PPP loans totaling \$233.7 billion, which buttressed the paychecks of more than 26 million American workers and represented more than 52.6 percent of the number of

⁴ Data derived from the Consolidated Reports of Condition and Income (Call Report) and Financial Statements for Holding Companies (FR Y-9C) data December 31, 2019 to June 30, 2020.

⁵ See <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm>.

⁶ See Paycheck Protection Program Liquidity Facility Term Sheet, available at <https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200728a7.pdf>.

⁷ U.S. Small Business Administration, "Notice: Paycheck Protection Program closed August 8, 2020," available at <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program#section-header-0>.

⁸ U.S. Small Business Administration, "SBA and Treasury Announce Simpler PPP Forgiveness for Loans of \$50,000 or Less", October 8, 2020 available at <https://www.sba.gov/article/2020/oct/08/sba-treasury-announce-simpler-ppp-forgiveness-loans-50000-or-less>

loans originated under the program.⁹ This data suggests that the percentage of PPP loans originated by community banking organizations far exceeds those organizations' market share as a percentage of total banking system assets illustrating the outsized impact that participation in the PPP has had on community banking organizations.¹⁰

Community banking organizations are subject to a wide range of statutory requirements, regulations, and reporting requirements predicated on their risk profile and asset size.¹¹ Due to their response to the COVID event, many community banking organizations have been, or may soon be, pushed over an asset threshold that could subject them to additional regulation or to additional reporting requirements.¹² In the absence of regulatory burden relief, complying with these new or more stringent regulatory standards, especially if the community banking organization's assets are expected to be above a threshold for a limited time, would impose significant transition and compliance costs on community banking organizations. This interim final rule gives community banking organizations more time to either reduce their balance sheets by shedding temporary growth, or to prepare for higher regulatory and reporting standards.

II. Discussion

A. Interim Final Rule

A number of regulations contain asset-based thresholds that determine whether a banking organization is required to comply with a given regulatory requirement or provide a mandatory

⁹ U.S. Small Business Administration, "Paycheck Protection Program (PPP) Report: Approvals through 08/08/2020," available at <https://home.treasury.gov/system/files/136/SBA-Paycheck-Protection-Program-Loan-Report-Round2.pdf>.

¹⁰ As of the June 30, 2020, approximately 80 percent of depository institutions with assets less than \$10 billion reported PPP loans on their Call Report.

¹¹ The agencies recognize there are some guidance documents that include asset-based thresholds of \$10 billion or below. In these instances, the agencies are confirming that these thresholds are exemplary only and not suggestive of requirements. For the reasons discussed above, the agencies will take the same perspective on asset-based thresholds in guidance as they are taking with regard to asset-based regulatory thresholds.

¹² Based on data as of June 30, 2020, the agencies estimate that around 44 holding companies and 582 community banks crossed a regulatory threshold set at \$10 billion or less.

regulatory report, or whether a banking organization is otherwise eligible for a particular regulatory treatment. Asset-based regulatory thresholds are meant to ensure that the regulatory requirements applicable to a banking organization are appropriate, given the banking organization's likely risk profile and, in some cases, the potential risk that the banking organization poses to U.S. financial stability.

As discussed above, many community banking organizations have experienced an unexpected and sharp increase in assets since the beginning of the COVID event. This rapid growth has caused the assets of certain community banking organizations to rise above certain asset-based thresholds in the agencies' regulations, and may cause other community banking organizations to do so in the near future. As noted, much of this growth, especially growth related to PPP lending, is likely to be temporary, and the increase in assets currently held by a community banking organization may not reflect a change in the organization's longer-term risk profile.

In the absence of regulatory burden relief, community banking organizations that experience an increase in assets above one or more regulatory thresholds would face significant transition costs necessary to comply with new or more stringent regulatory and reporting standards. Given the rapid and unexpected nature of community banking organization asset growth in 2020, many community banking organizations are unlikely to have planned for these transition costs. Further, to the extent this asset growth is temporary, it does not reflect changes in community banking organizations' risk profiles, and many community banking organizations that cross above asset-based regulatory thresholds could fall back below the thresholds. Additionally, community banking organizations that are approaching certain asset thresholds in the agencies' regulations may become reluctant to continue lending if this would subject them to new or more stringent regulatory and reporting standards. Therefore, the agencies believe it is appropriate to provide temporary regulatory burden relief to community banking organizations that have risen above, or will rise above, certain asset-based regulatory thresholds. The relief

should promote further lending and avoid potentially temporary, but significant, transition costs that community banking organizations would otherwise face to comply with new standards.

In order to provide this regulatory burden relief, the agencies are issuing this interim final rule to temporarily change, for a number of asset-based regulatory thresholds, the date as of when a community banking organization measures its assets for the purpose of determining whether it exceeds the threshold (referred to as the “measurement date”). Specifically, the interim final rule will permit community banking organizations, through December 31, 2021, to determine the applicability of certain asset-based regulatory thresholds using asset data as of December 31, 2019, if the organization’s assets as of that date were less than its assets on the date as of which the applicability of a given threshold would normally be determined. This means that asset growth in 2020 or 2021 will not trigger new regulatory requirements for these community banking organizations until January 1, 2022, at the earliest. This temporary regulatory burden relief reflects that much of the asset growth since the start of the COVID event, especially growth related to PPP lending, is generally expected to be temporary in nature and therefore likely does not reflect changes in community banking organizations’ risk profile.

The agencies are limiting the regulatory burden relief in this interim final rule to banking organizations that had less than \$10 billion in assets as of December 31, 2019. Banking organizations with under \$10 billion in assets likely have fewer resources available to prepare and comply with previously unanticipated regulatory requirements, especially during a time of economic uncertainty and disruption. Further, as discussed above, community banking organizations have originated a disproportionately large percentage of PPP loans, as compared with the organizations’ market share; therefore, as compared to larger organizations, a larger portion of any increase in asset size at community banking organizations is likely to be temporary, and is therefore less likely to reflect a change in an organization’s risk profile or business activities.

This temporary regulatory burden relief applies to the following asset-based regulatory

thresholds:¹³

| REGULATION | REGULATORY THRESHOLD EFFECT | ASSET-BASED THRESHOLD ¹⁴ | RULE LOCATION | ASSET MEASUREMENT DATE (PRIOR TO JANUARY 1, 2022) | ASSET MEASUREMENT DATE (FOR REQUIREMENTS IN 2022) |
|--|---|---|---|--|---|
| OCC: Capital Adequacy Standards (Part 3) Board: Capital Adequacy of Bank Holding Companies, Savings and Loan Holding Companies, and State Member Banks (Regulation Q) FDIC: Capital Adequacy of FDIC-Supervised Institutions | Eligibility for community bank leverage ratio framework | \$10 billion in total consolidated assets | OCC: 12 CFR 3.12 Board: 12 CFR 217.12 FDIC: 12 CFR 324.12 | December 31, 2019, or the end of the most recent calendar quarter, whichever results in a lower amount | End of the most recent calendar quarter |
| Board: Debit Card Interchange Fees and | Exemption for small issuers | \$10 billion in assets | Board: 12 CFR 235.5(a) | December 31, 2019, or December 31, | December 31, 2021 |

¹³ This interim final rule does not address the exemption in the Board’s Regulation H from certain flood insurance escrow requirements for qualifying state member banks (less than \$1 billion in assets as of December 31 of either of the two prior calendar years, provided other conditions are also met), 12 CFR 208.25(e)(3), or the provision in the Board’s Regulation BB defining small bank and intermediate small bank for purposes of determining applicable Community Reinvestment Act evaluation procedures. As currently defined in Regulation BB: a small bank is a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.305 billion; an intermediate small bank is a small bank with assets of at least \$326 million as of December 31 of both of the prior two calendar years and less than \$1.305 billion as of December 31 of either of the prior two calendar years; and a large bank is a bank with assets of at least \$1.305 billion as of December 31 of both of the prior two calendar years, 12 CFR 228.12(u)(1). As indicated, the asset-based thresholds in these provisions take into account assets as of the end of the two previous calendar years. Therefore, the earliest that a bank with assets that did not exceed one of these thresholds as of December 31, 2019, could exceed the threshold is January 1, 2022. As a result, consistent with this interim final rule, asset growth in 2020 or 2021 will not trigger new regulatory requirements until January 1, 2022, at the earliest. For similar reasons, the interim final rule does not adjust thresholds in the OCC and the FDIC’s flood insurance escrow rule at 12 CFR 22.5(c) (OCC) and 12 CFR 339.5(c) (FDIC) and Community Reinvestment Act regulatory thresholds for small banks and intermediate banks at 12 CFR part 25 (OCC) and 12 CFR 345 (FDIC). The OCC also is not adjusting thresholds for depository institution management interlocks at 12 CFR part 26, as this part already permits any affected bank to request a waiver related to unanticipated asset growth.

¹⁴ This interim final rule only provides temporary relief with regard to the measurement date of assets. Other criteria that apply to certain of the affected regulatory provisions remain in effect, and the measurement date for other quantities has not been changed by this interim final rule.

| REGULATION | REGULATORY THRESHOLD EFFECT | ASSET-BASED THRESHOLD ¹⁴ | RULE LOCATION | ASSET MEASUREMENT DATE (PRIOR TO JANUARY 1, 2022) | ASSET MEASUREMENT DATE (FOR REQUIREMENTS IN 2022) |
|--|---|-------------------------------------|---|---|---|
| Routing (Regulation II) | | | | 2020, whichever results in a lower amount | |
| Board: Management Official Interlocks (Regulation L) FDIC: Management Official Interlocks | Exemption from prohibition on service as a “management official” of multiple institutions | \$10 billion in total assets | Board: 12 CFR 212.3(c) FDIC: 12 CFR 348.3(c) | December 31, 2019, or the end of the depository organization’s most recent fiscal year, whichever results in a lower amount | End of the most recent fiscal year |
| | Exemption for honorary or advisory directors from definition of “management official” | \$100 million in total assets | Board: 12 CFR 212.2(j)(1) FDIC: 12 CFR 348.2(k)(1) | | |
| | Exemption from relevant metropolitan statistical area prohibition | \$50 million in total assets | Board: 12 CFR 212.3(b) FDIC: 12 CFR 348.3(b) | | |
| Board: Savings and Loan Holding Companies (Regulation LL) | Interlocks - Major asset prohibition | \$10 billion | Board: 12 CFR 238.93(c) | December 31, 2019, or the end of the organization’s most recent fiscal year, whichever results in a lower amount | End of the most recent fiscal year |
| | Audit requirement for safety and soundness purposes | \$500 million | Board: 12 CFR 238.5(b) | December 31, 2019, or end of the organization’s most recent fiscal year, whichever results in a lower amount | End of the most recent fiscal year |
| | Informational requirements for acquisition of a company | \$150 million | Board: 12 CFR 238.53(c)(2)(iii)-(iv) | December 31, 2019, or the end of the most recent calendar quarter, whichever | End of the most recent calendar quarter |

| REGULATION | REGULATORY THRESHOLD EFFECT | ASSET-BASED THRESHOLD ¹⁴ | RULE LOCATION | ASSET MEASUREMENT DATE (PRIOR TO JANUARY 1, 2022) | ASSET MEASUREMENT DATE (FOR REQUIREMENTS IN 2022) |
|--|---|-------------------------------------|---|--|---|
| | | | | results in a lower amount | |
| | Interlocks - Exemption for honorary or advisory directors from definition of "management official" | \$100 million | Board: 12 CFR 238.92(j)(1) | December 31, 2019, or the end of the organization's most recent fiscal year, whichever results in a lower amount | End of the most recent fiscal year |
| | Interlocks - Exemption from relevant metropolitan statistical area prohibition | \$50 million | Board: 12 CFR 238.93(b) | December 31, 2019, or the end of the organization's most recent fiscal year, whichever results in a lower amount | End of the most recent fiscal year |
| OCC: Regulatory Reporting (Part 52) Board: Membership of State Banking Institutions in the Federal Reserve System (Regulation H) FDIC: Forms, Instructions, and Reports | Eligibility for reduced reporting of the Consolidated Reports of Condition and Income (Call Report) | \$5 billion | OCC: 12 CFR 52.2 Board: 12 CFR 208.122(b) FDIC: 12 CFR 304.12(a) | December 31, 2019, or June 30, 2020, whichever results in a lower amount | June 30, 2021 |
| OCC: Organization and Functions (Part 4, Subpart A) Board: Membership of State Banking Institutions in the Federal Reserve System (Regulation H) FDIC: Unsafe and Unsound Bank Practices | Eligibility for 18-month examination cycle | \$3 billion | OCC: 12 CFR 4.6(b) Board: 12 CFR 208.64(b) FDIC: 12 CFR 337.12(b) | December 31, 2019, or the end of the most recent calendar quarter, whichever results in a lower amount | End of most recent calendar quarter |

| REGULATION | REGULATORY THRESHOLD EFFECT | ASSET-BASED THRESHOLD ¹⁴ | RULE LOCATION | ASSET MEASUREMENT DATE (PRIOR TO JANUARY 1, 2022) | ASSET MEASUREMENT DATE (FOR REQUIREMENTS IN 2022) |
|--|--|---|---|--|---|
| Board: Membership of State Banking Institutions in the Federal Reserve System (Regulation H) | Eligibility for streamlined method of compliance with the reporting requirements of the Securities and Exchange Commission | \$150 million | 12 CFR 208.36(b) | December 31, 2019, or the end of the bank's most recent fiscal year, whichever results in a lower amount | End of the most recent fiscal year |
| Bank Holding Companies and Change in Bank Control (Regulation Y) | Various thresholds in the Board's rules regarding bank holding companies and change in bank control (Regulation Y) concerning filing requirements and permissible activities | \$3 billion, \$300 million, \$150 million, and \$50 million | 12 CFR 225.4(b)(2)(iii)(A)-(B), 225.14(a)(1)(v)(A)(1)-(2), 225.14(a)(1)(vi), 224.14(c)(6)(ii), 225.17(a)(6), 225.23(a)(1)(iii)(A)(1)-(2), 225.23(c)(5)(ii), 225.24(a)(2)(iv)-(v), 225.28(b)(11)(vi), and Appendix C | December 31, 2019, or the end of the most recent calendar quarter, whichever results in a lower amount | Normally applicable asset measurement date |
| OCC: Organization and Functions (Part 4, Subpart A) Board: International Banking Operations (Regulation K) FDIC: International Banking | Eligibility for an 18-month examination cycle for U.S. branches and agencies of foreign banks | \$3 billion | OCC: 12 CFR 4.7(b) Board: 12 CFR 211.26(c)(2) FDIC: 12 CFR 347.211(b) | December 31, 2019, or the end of the most recent calendar quarter, whichever results in a lower amount | End of most recent calendar quarter |

As a result of this temporary regulatory burden relief, a community banking organization that was below one of the above-listed asset thresholds as of December 31, 2019, generally will be deemed to remain below that threshold through the end of 2021, plus any applicable transition period provided by the regulation. For example, the Board's rules regarding debit card interchange fees and routing include an exemption for small issuers, which provides that a debit card issuer is not required to comply with certain requirements with respect to an electronic debit

transaction if the issuer holds the account that is debited and the issuer, together with its affiliates, has assets of less than \$10 billion as of the end of the calendar year preceding the date of the electronic debit transaction.¹⁵ Pursuant to this interim final rule, an issuer that, together with its affiliates, had assets of \$9.9 billion as of December 31, 2019, \$10.1 billion as of December 30, 2020, and \$10.1 billion as of December 31, 2021, would be deemed to remain below the \$10 billion threshold for purposes of this rule through the end of 2021, at which point the six-month transition period provided by 12 CFR 235.5(a)(3) would begin. Therefore, this issuer would not be required to comply with the Board’s rules regarding debit card interchange fees and routing until July 1, 2022.

The temporary regulatory burden relief provided by this interim final rule applies through the end of 2021, so that a community banking organization within the scope of the temporary regulatory burden relief will not be required to comply with the regulatory or reporting requirements covered by this interim final rule until the beginning of 2022 (plus any applicable transition period),¹⁶ at the earliest, assuming that the organization remains above the relevant threshold.

The agencies have determined not to amend in this interim final rule a provision in the agencies’ regulations regarding section 13 of the Bank Holding Company Act (BHC Act) (commonly known as the Volcker Rule). The Volcker Rule generally applies to “banking entities,” which include insured depository institutions, their affiliates, and any company that controls an insured depository institution, among other companies.¹⁷ For purposes of the Volcker Rule, the definition of “insured depository institution” excludes an insured depository institution if the insured depository institution, and every entity that controls it, has total

¹⁵ 12 CFR 235.5(a).

¹⁶ *See* 12 CFR 3.12(c) (OCC); 12 CFR 217.12(c) (Board); 12 CFR 324.12(c) (FDIC) (community bank leverage ratio framework); 12 CFR 235.5(a)(3) (rules regarding debit card interchange fees and routing).

¹⁷ 12 CFR 44.2(c) (OCC); 12 CFR 248.2(c) (Board); 12 CFR 324.12(c) (FDIC).

consolidated assets equal to or less than \$10 billion, as long as the total consolidated trading assets and liabilities of the insured depository institution, and every entity that controls it, are equal to or less than five percent of the insured depository institution's total consolidated assets.¹⁸

The agencies have determined that it is not necessary to amend the Volcker Rule regulations in order to provide temporary regulatory burden relief to a bank or any of its subsidiaries or affiliates that become a “banking entity” for purposes of the Volcker Rule because the assets of the bank or any entity that controls it increase above the \$10 billion asset threshold. Under section 13 of the BHC Act and the Board's rule implementing the conformance period in the Volcker Rule,¹⁹ an entity that newly becomes a “banking entity” for purposes of the Volcker Rule has two years to come into compliance with the requirements of the Volcker Rule, and may seek an extension of the conformance period from the Board.²⁰ A banking entity that ceases to be a banking entity during that period—for example by virtue of reducing its asset size—would no longer be subject to the Volcker Rule.

The regulation implementing the statutory Volcker Rule conformance period have not yet been updated to account for the change in the definition of “banking entity” implemented by EGRRCPA. However, the Board notes that because the changes EGRRCPA made to the Volcker Rule were effective immediately upon enactment, the conformance period regulation should be read in a way that is consistent with EGRRCPA and takes into account the amendments it made to the definition of “banking entity.” Under this interpretation, a company may become a new banking entity by virtue of crossing the \$10 billion asset threshold under the

¹⁸ 12 CFR 44.2(r) (OCC); 12 CFR 248.2(r)(2) (Board); 12 CFR 351.2(r)(2) (FDIC). The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), enacted on May 24, 2018, amended section 13 of the BHC Act by modifying the definition of “banking entity,” to exclude certain small firms from section 13's restrictions. EGRRCPA, Pub. L. 115–174, section 203 (May 24, 2018). This amendment was effective upon EGRRCPA's enactment.

¹⁹ Pursuant to sections (c)(2) and (c)(6) of the Volcker Rule (12 U.S.C. 1851(c)(2) and (c)(6)), the Board has sole authority to issue rules to implement the Volcker Rule conformance period.

²⁰ *See* 12 CFR 225.181(a)(2), (3).

definition of “banking entity,” as amended by EGRRCPA. Therefore, for the sake of clarification, the Board confirms that a company that was not a banking entity, or a subsidiary or affiliate of a banking entity, and then becomes a banking entity for purposes of the Volcker Rule because it, or any subsidiary or affiliate, exceeds \$10 billion in assets, will qualify for the conformance period described in the Volcker Rule and the Board’s implementing regulations.²¹ This interpretation covers any company that crossed the \$10 billion asset threshold after the enactment of EGRRCPA on May 24, 2018, including a company that crossed the threshold after December 31, 2019.

A. Reservation of Authority

The temporary regulatory burden relief described above is generally available to community banking organizations that meet the requirements described above. However, there may be limited instances in which such regulatory burden relief would be inappropriate. In order to address certain such situations, the agencies may use existing reservations of authority in their respective regulations to require a community banking organization to comply with a given regulatory requirement that would otherwise not be applicable to the organization pursuant to the relief provided by this interim final rule. Additionally, with respect to each of the asset-based regulatory thresholds that did not previously include a reservation of authority, the interim final rule creates a new reservation of authority pursuant to which an agency may determine that a community banking organization is not eligible to use the relief provision with respect to one or more of the asset thresholds covered by the rule if the relevant agency makes an institution-specific determination that permitting the institution to determine its assets in accordance with

²¹ Although the conformance regulation refers to a requirement that a company was not a banking entity as of July 21, 2010, EGRRCPA’s change to the definition of “banking entity” means that a firm that was below the asset threshold as of July 21, 2010, regardless of whether it was subject to the Volcker Rule at the time, is eligible for the conformance period if it becomes a banking entity due to exceeding the asset threshold.

that relief provision would not be appropriate based on the organization's risk profile.^{22, 23} When making any such determination, the agencies would consider all relevant factors, including the extent of asset growth of the community banking organization since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the community banking organization has become involved in any additional activities since December 31, 2019, and, if so, the risk of such activities; the asset size of any parent companies; and the type of assets held by the community banking organization.²⁴

²² With respect to the exemption for small issuers from the Board's rules regarding debit card interchange fees and routing, the reservation of authority will concern a determination related to the issuer's asset profile, rather than its risk profile, due to differences in the relevant statutory framework.

²³ The interim final rule does not include a new reservation of authority in connection with the temporary relief provided with respect to the \$3 billion threshold in the agencies' rules that determines, in part, a depository institution's eligibility for an 18-month examination cycle, because the rules already contain a reservation of authority pursuant to which each agency may examine any depository institution that it supervises as frequently as the agency deems necessary. 12 CFR 4.6(c) and 4.7(c) (OCC); 12 CFR 208.64(c) (Board); 12 CFR 337.12(c) and 12 CFR 347.211(c) (FDIC). Amendments to the agencies' capital regulations governing eligibility for use of the community bank leverage ratio framework and regulations affecting the prohibition on certain management official interlocks each include a reservation of authority. The agencies may exercise this reservation of authority to determine that such relief provisions shall not apply to a supervised institution if the relevant agency determines that such relief would not be commensurate with the risk posed by the institution. Amendments to the regulations governing eligibility to use the FFIEC 051 do not include new reservations of authority because the existing reservations of authority would continue to apply. The existing Call Reports rules reserve the authority of each agency to require a depository institution otherwise eligible for reduced reporting to file the FFIEC 041 version of the report of condition. 12 CFR 52.4 (OCC); 12 CFR 304.14 (FDIC).

²⁴ The temporary regulatory burden relief provided by this interim final rule does not eliminate any existing authority of the Board to apply a regulatory standard, such as a standard related to application processing, to a community banking organization that, due to its asset size, would otherwise not qualify for the standard. For example, a bank holding company that meets certain characteristics, including asset-size limits, may be eligible for streamlined application processing. However, the Board or its delegatee may in its discretion notify such organizations that a full application is required in order to permit a closer review of the proposal. Nothing in this interim final rule affects the Board's authority to exercise such discretion, to request information that is needed to analyze the relevant statutory factors for an application or notice, or to consider the ability of a community banking organization that files a notice or application with

In particular, in determining that the community banking organization is not eligible to use a regulatory burden relief provision, the relevant agency will consider whether a community banking organization crossed an asset-based regulatory threshold due to a merger or acquisition that significantly increases the community banking organization's asset size. Asset growth that occurs as a result of a merger or acquisition is planned, unlike the growth that many community banking organizations have experienced since the beginning of the COVID event. Community banking organizations crossing a regulatory threshold as a result of a merger or acquisition therefore have had the opportunity to prepare for the change in regulatory requirements. Additionally, asset growth caused by a merger or acquisition is generally expected to be permanent and therefore not impose transition costs for a requirement expected to be temporary. The reservations of authority included in this interim final rule are not limited to situations in which there has been a merger or acquisition because, even in the absence of a merger or acquisition transaction, significant asset growth at a community banking organization may reflect a material change in the business model, risk profile, or complexity of the community banking organization. Nonetheless, the agencies expect to apply the reservation of authority only in limited circumstances, such as when there is significant growth due to a merger or acquisition or when there is a material change in the business model, risk profile, or complexity of the community banking organization.

B. Regulatory Reporting Changes

the Board to comply with statutory or regulatory requirements that may be applicable to the organization upon expiration of the relief provided by this interim final rule.

Certain provisions of the Board's Regulation Y include asset-based thresholds of \$10 billion or below that are based on the pro forma consolidated assets of a bank holding company or the consolidated risk-weighted assets of a bank holding company immediately following consummation of a proposed transaction. With regard to these thresholds, the interim final rule permits bank holding companies, through 2021, to calculate pro forma assets by adding together the assets that each company involved in a business combination had as of December 31, 2019. However, the calculation of pro forma or combined assets must also include the December 31, 2019, assets of any company with which any company that is party to a proposed business combination has itself combined with since December 31, 2019.

Similar to the Board's regulations, a number of the Board's regulatory reports contain asset-based thresholds that determine whether a banking organization is required to report certain information. For the same reason that the Board is providing the regulatory burden relief discussed above with regard to determining the applicability of asset-based thresholds contained in the Board's regulations, the Board is temporarily revising certain of its regulatory reports that contain asset-based reporting thresholds set at \$10 billion or less pursuant to the Board's authority to temporarily revise a collection of information without providing the opportunity for public comment. This regulatory burden relief applies to reports with as-of dates up to and including December 31, 2021. Specifically, with regard to each of the regulatory reports discussed below, through December 31, 2021, a banking organization will be permitted to determine the applicability of asset-based reporting thresholds set at \$10 billion or less using asset data as of December 31, 2019, if the organization's assets as of that date were less than its assets on the date as of which the applicability of a given threshold would normally be determined. The revisions to the affected reports do not affect the substantive reporting instructions for any item, schedule, or report. Rather, they merely affect which banking organizations are required to report certain items, schedules, or reports.

As with regard to asset-based regulatory thresholds, and for the same reasons, the Board will retain a reservation of authority with regard to each of the affected reports, pursuant to which the Board would retain the authority to require a banking organization to use an asset measurement date other than December 31, 2019, to determine compliance with a reporting threshold. The Board will use the same factors in determining whether to exercise its reservation of authority with regard to reporting thresholds as with regard to regulatory thresholds.

The regulatory burden relief discussed above applies to the following information collections:

- Financial Statements for Holding Companies (FR Y-9 Reports; OMB No. 7100-0128);

- Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies (FR Y-11 and FR Y-11S; 7100-0244);
- Reports of Foreign Banking Organizations (FR Y-7N, FR Y-7NS, and FR Y-7Q; 7100-0125); and
- Statements of Foreign Subsidiaries of U.S. Banks (FR 2314 and FR 2314S; OMB No. 7100-0073).

The agencies plan to publish a separate *Federal Register* notice that will address corresponding changes to the Call Reports.

The following chart summarizes the manner in which banking organizations will be required to determine the applicability of various reporting thresholds through the end of 2021 and afterwards.

| Table 1: Reporting Requirements for Affected Federal Reserve Reports Under the Interim Final Rule and after Regulatory Burden Relief Ends¹ | | |
|--|---|--|
| Information Collection | Reporting Applicability for 2020-2021 | Filers Use Assets as of these Dates to Determine Reporting Requirement for 2022² |
| FR Y-9C (quarterly) - Consolidated Financial Statements for Holding Companies | Report filing not required for holding company below the \$3 billion asset threshold using the lesser of most current filing applicable date or 12/31/2019 as-of-date | Use 06/30/2021 total assets to determine reporting applicability for reports with 2022 as-of dates |
| FR Y-9LP (quarterly) - Parent Company Only Financial Statements for Large Holding Companies | Report filing not required for holding company below the \$3 billion asset threshold using the lesser of most current filing applicable date or 12/31/2019 as-of-date | Use 06/30/2021 total assets to determine reporting applicability for reports with 2022 as-of dates |
| FR Y-11 (quarterly) - Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies | Quarterly report filing not required if nonbank subsidiary had assets of at least \$500 million but less than \$1 billion using the lesser of most current filing applicable date or 12/31/2019 as-of-date and does not meet any the other criteria to file quarterly | Use 06/30/2021 total assets to determine eligibility for reports with 2022 as-of dates |
| FR Y-11 (annual) - Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies | Annual report filing not required if nonbank subsidiary has assets of less than \$500 million using the lesser of most current filing applicable date or 12/31/2019 as-of-date | Use total assets as of the reporting as-of date (12/31/2022) to determine reporting applicability |

| | | |
|--|--|---|
| FR Y-11S (annual) - Abbreviated Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Co | Report filing not required if nonbank subsidiary was not greater than \$250 million and less than \$500 million using the lesser of most current filing applicable date or 12/31/2019 as-of-date and does not meet the other filing criteria | Use total assets as of the reporting as-of date (12/31/2022) to determine reporting applicability |
| FR Y-7N (quarterly) - Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations | Quarterly report filing not required if nonbank subsidiary was below the \$1 billion asset threshold using the lesser of most current filing applicable date or 12/31/2019 as-of-date and does not meet any other filing criteria | Use total assets as of the reporting as-of date to determine reporting applicability |
| FR Y-7N (annual) - Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations | Report filing not required if nonbank subsidiary was not greater than \$500 million and less than \$1 billion using lesser of most current filing applicable date or 12/31/2019 as-of-date and does not meet any other filing criteria | Use total assets as of the reporting as-of date (12/31/2022) to determine reporting applicability |
| FR Y-7NS (annual) - Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations | Report filing not required if nonbank subsidiary was not greater than \$250 million and less than \$500 million using the lesser of most current filing applicable date or 12/31/2019 as-of-date and does not meet the other filing criteria | Use total assets as of the reporting as-of date (12/31/2022) to determine reporting applicability |
| FR 2314 (quarterly) - Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations | Quarterly report filing not required if nonbank subsidiary has assets less than \$1 billion using the lesser of most current filing applicable date or 12/31/2019 as-of-date and does not meet any of other criteria to file quarterly | Use 06/30/2021 total assets to determine eligibility for reports with 2022 as-of dates |
| FR 2314 (annual) - Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations | Report filing not required if nonbank was not greater than \$500 million and less than \$1 billion in total assets using lesser of most current filing applicable date or 12/31/2019 as-of-date | Use total assets as of the reporting as-of date (12/31/2022) to determine reporting applicability |
| FR 2314S (annual) - Abbreviated Financial Statements of Foreign Subsidiaries of U.S. Banking Org | Report filing not required if nonbank was not greater than \$250 million and less than \$500 million in total asset using the lesser of most current filing applicable date or 12/31/2019 as-of-date | Use total assets as of the reporting as-of date (12/31/2022) to determine reporting applicability |
| <p>¹ During 2020 - 2021, applicability of new reporting requirements would be based on the December 31, 2019 data. For example, a holding company that does not currently file the FR Y-9C will not use its June 2020 total consolidated assets (TCA) to determine the March 31, 2021, filing requirement, and would not be required to file the FR Y-9C report until March 21, 2022. After the regulatory burden relief ends, the institution would use June 30, 2021, TCA to determine initial filing for the March 31, 2022, reporting period</p> <p>² Beginning January 1, 2022, asset measurement for applicability of reporting will revert-back to how institutions determined applicability prior to the reporting relief.</p> | | |

II. Request for Comment

The agencies seek comment on all aspects of this interim final rule. In particular, the agencies seek comment on the duration of the temporary regulatory burden relief and on the following specific question:

(1): What are the advantages and disadvantages of requiring community banking organizations subject to this interim final rule to determine compliance with regulatory thresholds using the lesser of an organization’s assets as of December 31, 2019, and its assets on the date as of which the applicability of a given threshold would normally be determined? What would be the advantages and disadvantages of an alternative measurement date? Commenters are invited to describe other dates and the advantages and disadvantages of any such dates.

III. Administrative Law Matters

A. Administrative Procedure Act

The agencies are issuing the interim final rule without prior notice and the opportunity for public comment and without the 30-day delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).²⁵ Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”²⁶

As discussed above, the interim final rule provides temporary regulatory burden relief to community banking organizations crossing regulatory and reporting asset thresholds in 2020 and 2021. Many community banking organizations have experienced dramatic and unexpected increases in their assets as a result of their efforts to support the economy during the ongoing COVID event. As noted, a significant portion of this asset growth can be traced to participation

²⁵ 5 U.S.C. 553.

²⁶ 5 U.S.C. 553(b)(B).

by community banking organizations in emergency lending programs sponsored by the U.S. government, other lending related to the COVID event, and an unexpected surge in deposits. The interim final rule facilitates the ability of community banking organizations to temporarily defer the implementation of regulatory and reporting thresholds that would not have been applicable had they not experienced this growth in assets. Therefore, the interim final rule benefits community banking organizations from the above referenced regulations and reports by providing temporary regulatory burden relief. The interim final rule does not impose any requirements on any covered community banking organizations.

The agencies believe that the public interest is best served by making the interim final rule effective immediately upon publication in the *Federal Register*. The agencies believe that issuing the interim final rule will ensure that community banking organizations will not be unnecessarily required to comply with threshold-based regulatory standards that may not be appropriate given the organizations' likely long-term risk profile and activities after the reversal of any temporary growth. The interim final rule also will allow community banking organizations to avoid the costs of temporarily complying with regulatory requirements, allowing the banking organizations to continue to focus on the provision of credit during this time of economic stress. In addition, the agencies believe that providing a notice and comment period prior to issuance of the interim final rule is impracticable, as community banking organizations may start incurring transition costs prior to the end of 2020 in anticipation of needing to comply with additional requirements starting as early as December 31, 2020. For these reasons, the agencies find there is good cause consistent with the public interest to issue the interim final rule without advance notice and comment.

The APA also requires a 30-day delayed 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.²⁷ The agencies find good cause to publish the interim final rule with an immediate effective date for the same reasons set forth above under the discussion of section 553(b)(B) of the APA.

While the agencies believe there is good cause to issue the interim final rule without advance notice and comment and with an immediate effective date, the agencies are requesting comment on all aspects of the interim final rule.

B. Congressional Review Act

For purposes of Congressional Review Act (CRA), 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 CRA generally provides that the rule may not take effect until at least 60 days following its publication.²⁹

The CRA 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 (1) an annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (3) 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

For the same reasons set forth above, the agencies are adopting the interim final rule without the delayed effective date generally prescribed under the CRA. The delayed effective date required by the CRA does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that

²⁷ 5 U.S.C. 553(d).

²⁸ 5 U.S.C. 801 et seq.

²⁹ 5 U.S.C. 801(a)(3).

³⁰ 5 U.S.C. 804(2).

notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. In light of current market uncertainty and because community banking organizations may start incurring transition costs prior to the end of 2020 in anticipation of needing to comply with additional requirements starting as early as December 31, 2020, the agencies believe that delaying the effective date of the rule would be contrary to the public interest.

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

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) states that no agency may conduct or sponsor, nor is a respondent required to respond to, an information collection unless it displays a currently valid OMB control number.³¹ The interim final rule affects the agencies' current information collections for the Call Reports (FFIEC 031, FFIEC 041, and FFIEC 051). The OMB control numbers for the Call Reports of the agencies are: OCC OMB No. 1557-0081; Board OMB No. 7100-0036; and FDIC OMB No. 3064-0052.

For purposes of the Call Reports, any change resulting from the relief provided by this interim final rule should be minimal and result in a zero net change in hourly burden under the agencies' information collections. Submissions will, however, be made by the agencies to OMB. The changes to the instructions of the Call Reports will be addressed in a separate *Federal Register* notice.

In addition, this interim final rule does not introduce any new information collections. It does, however, temporarily impact the following information collections: FR Y-9 Reports; FR Y-11; FR Y-11S; FR Y-7N; FR Y-7NS; FR 2314; and FR 2314S. The Board has reviewed this interim final rule pursuant to authority delegated by the OMB. The Board has temporarily

³¹ 44 U.S.C. 3501-3521.

revised the instructions for these information collections to reflect changes made in the interim final rule.

On June 15, 1984, OMB delegated to the Board authority under the PRA to approve a temporary revision to a collection of information without providing opportunity for public comment if the Board determines that a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its statutory obligation.

The Board's delegated authority requires that the Board, after temporarily approving a collection, solicit public comment on a proposal to extend the temporary collection for a period not to exceed three years. Therefore, the Board is inviting comment on a proposal to extend these information collections for three years with such revisions. The Board invites public comment on the information collections, which are being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the information collection.

Approval under OMB Delegated Authority of the Temporary Revision of, and Proposal to Extend for Three Years, With Revision, the Following Information Collections:

1. *Report title:* Financial Statements for Holding Companies.

Agency form number: FR Y-9C, FR Y-9LP, FR Y-9SP, FR Y-9ES, and FR Y-9CS.

OMB control number: 7100-0128.

Effective date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

Frequency: Quarterly, semiannually, and annually.

Respondents: Bank holding companies, savings and loan holding companies, securities holding companies, and U.S. intermediate holding companies (collectively, holding companies).

Estimated number of respondents: FR Y-9C (non-advanced approaches community bank leverage ratio holding companies with less than \$5 billion in total assets): 71; FR Y-9C (non-advanced approaches community bank leverage ratio holding companies with \$5 billion or more in total assets): 35; FR Y-9C (non-advanced approaches, non-community bank leverage ratio, holding companies with less than \$5 billion in total assets): 84; FR Y-9C (non-advanced approaches, non-community bank leverage ratio holding companies, with \$5 billion or more in total assets): 154; FR Y-9C (advanced approaches holding companies): 19; FR Y-9LP: 434; FR Y-9SP: 3,960; FR Y-9ES: 83; FR Y-9CS: 236.

Estimated annual burden hours:

Reporting

FR Y-9C (non-advanced approaches community bank leverage ratio holding companies with less than \$5 billion in total assets): 8,284 hours; FR Y-9C (non-advanced approaches community bank leverage ratio holding companies with \$5 billion or more in total assets): 4,920; FR Y-9C (non-advanced approaches non community bank leverage ratio holding companies with less than \$5 billion in total assets): 13,779; FR Y-9C (non-advanced approaches non-community bank leverage ratio holding companies with \$5 billion or more in total assets): 28,940 hours;

FR Y-9C (advanced approaches holding companies): 3,747 hours; FR Y-9LP: 9,149 hours; FR Y-9SP: 42,768 hours; FR Y-9ES: 42 hours; FR Y-9CS: 472 hours.

Recordkeeping

FR Y-9C (non-advanced approaches holding companies with less than \$5 billion in total assets): 620 hours; FR Y-9C (non-advanced approaches holding companies with \$5 billion or more in total assets): 756 hours; FR Y-9C (advanced approaches holding companies): 76 hours; FR Y-9LP: 1,736 hours; FR Y-9SP: 3,960 hours; FR Y-9ES: 42 hours; FR Y-9CS: 472 hours.

General description of report: The FR Y-9 family of reporting forms continues to be the primary source of financial data on holding companies that examiners rely on in the intervals between on-site inspections. Financial data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate holding company mergers and acquisitions, and to analyze a holding company's overall financial condition to ensure the safety and soundness of its operations. The FR Y-9C, FR Y-9LP, and FR Y-9SP serve as standardized financial statements for the consolidated holding company. The Board requires holding companies to provide standardized financial statements to fulfill the Board's statutory obligation to supervise these organizations. The FR Y-9ES is a financial statement for holding companies that are Employee Stock Ownership Plans. The Board uses the voluntary FR Y-9CS (a free-form supplement) to collect additional information deemed to be critical and needed in an expedited manner. Holding companies file the FR Y-9C quarterly, the FR Y-9LP quarterly, the FR Y-9SP semiannually, the FR Y-9ES annually, and the FR Y-9CS on a schedule that is determined when this supplement is used.

Legal authorization and confidentiality: The Board has the authority to impose the reporting and recordkeeping requirements associated with the FR Y-9 family of reports on bank holding companies pursuant to section 5 of the BHC Act, (12 U.S.C. 1844); on savings and loan holding

companies pursuant to section 10(b)(2) and (3) of the Home Owners' Loan Act, (12 U.S.C. 1467a(b)(2) and (3)); on U.S. intermediate holding companies pursuant to section 5 of the BHC Act, (12 U.S.C 1844), as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), (12 U.S.C. 511(a)(1) and 5365); and on securities holding companies pursuant to section 618 of the Dodd-Frank Act, (12 U.S.C. 1850a(c)(1)(A)). The FR Y-9 series of reports, and the recordkeeping requirements set forth in the respective instructions to each report, are mandatory, except for the FR Y-9CS, which is voluntary.

With respect to the FR Y-9C, Schedule HI Memoranda item 7.g, Schedule HC-P item 7.a, and Schedule HC-P item 7.b are considered confidential commercial and financial information under exemption 4 of the Freedom of Information Act (FOIA), (5 U.S.C. 552(b)(4)), as is Schedule HC Memoranda item 2.b for both the FR Y-9C and FR Y-9SP reports. Such treatment is appropriate under exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) because these data items reflect commercial and financial information that is both customarily and actually treated as private by the submitter, and which the Board has previously assured submitters will be treated as confidential. It also appears that disclosing these data items may reveal confidential examination and supervisory information, and in such instances, this information would also be withheld pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)), which protects information related to the supervision or examination of a regulated financial institution.

In addition, for both the FR Y-9C report and the FR Y-9SP report, Schedule HC Memoranda item 2.b, the name and email address of the external auditing firm's engagement partner, is considered confidential commercial information and protected by exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) if the identity of the engagement partner is treated as private information by holding companies. The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004.

Additionally, items on the FR Y-9C, Schedule HC-C regarding loans modified under Section 4013 (Memoranda item 16.a, “Number of Section 4013 loans outstanding”, and Memoranda item 16.b, “Outstanding balance of Section 4013 loans”) are considered confidential. While the Board generally makes institution-level FR Y-9C report data publicly available, the Board believes the disclosure of these items at the holding company level would not be in the public interest.³² Such information is permitted to be collected on a confidential basis, consistent with 5 U.S.C. 552(b)(8).³³ Holding companies may be reluctant to offer modifications under Section 4013 if information on these modifications is publicly available, as analysts, investors, and other users of public FR Y-9C report information may penalize an institution for using the relief provided by the CARES Act.

Aside from the data items described above, the remaining data items on the FR Y-9 report and the FR Y-9SP report are generally not accorded confidential treatment. The data items collected on FR Y-9LP, FR Y-9ES, and FR Y-9CS reports, are also generally not accorded confidential treatment. As provided in the Board's Rules Regarding Availability of Information (12 CFR part 261), however, a respondent may request confidential treatment for any data items the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate, and will inform the respondent if the request for confidential treatment has been denied.

To the extent that the instructions to the FR Y-9C, FR Y-9LP, FR Y-9SP, and FR Y-9ES reports each respectively direct a financial institution to retain the workpapers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or supervision of the financial institution. Accordingly, such

³² See 12 U.S.C. 1464(v)(2).

³³ Exemption 8 of the Freedom of Information Act (FOIA) specifically exempts from disclosure information “contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.”

information may be considered confidential pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). In addition, the financial institution's workpapers and related materials may also be protected by exemption 4 of the FOIA, to the extent such financial information is treated as confidential by the respondent (5 U.S.C. 552(b)(4)).

2. *Report title:* Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies and Abbreviated Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies.

Agency form number: FR Y-11 and FR Y-11S.

OMB control number: 7100-0244.

Effective date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

Frequency: Quarterly and annually.

Respondents: Domestic bank holding companies, savings and loan holding companies, securities holding companies, and intermediate holding companies.

Estimated number of respondents: FR Y-11 (quarterly): 445; FR Y-11 (annually): 189; FR Y-11S: 273.

Estimated annual burden hours: FR Y-11 (quarterly): 13,528 hours; FR Y-11 (annually): 1,436 hours; FR Y-11S: 273 hours.

General description of report: The FR Y-11 family of reports collects financial information for individual U.S. nonbank subsidiaries of domestic holding companies, which is essential for monitoring the subsidiaries' potential impact on the condition of the holding company or its subsidiary banks. Holding companies file the FR Y-11 on a quarterly or annual basis or the FR Y-11S on an annual basis, predominantly based on whether the organization meets certain asset size thresholds.

Legal authorization and confidentiality: The Board has the authority to require bank holding companies and any subsidiary thereof, savings and loan holding companies and any subsidiary thereof, and securities holding companies and any affiliate thereof to file the FR Y-11 pursuant to, respectively, section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10(b) of the

Homeowners' Loan Act (12 U.S.C. 1467a(b)), and section 618 of the Dodd-Frank Act (12 U.S.C. 1850a).

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of the FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of the FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of the FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

3. *Report title:* The Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, and the Capital and Asset Report of Foreign Banking Organizations.

Agency form number: FR Y-7N, FR Y-7NS, and FR Y-7Q.

OMB control number: 7100-0125.

Effective date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

Frequency: Quarterly and annually.

Respondents: Foreign banking organizations.

Estimated number of respondents: FR Y-7N (quarterly): 35; FR Y-7N (annually): 19; FR Y-7NS: 22; FR Y-7Q (quarterly): 130; FR Y-7Q (annually): 29.

Estimated annual burden hours: FR Y-7N (quarterly): 1,064 hours; FR Y-7N (annually): 144 hours; FR Y-7NS: 22 hours; FR Y-7Q (quarterly): 1,560 hours; FR Y-7Q (annually): 44 hours.

General description of report: The FR Y-7N and the FR Y-7NS are used to assess a foreign banking organization's ability to be a continuing source of strength to its U.S. nonbank operations and to determine compliance with U.S. laws and regulations. Foreign banking organizations file the FR Y-7N quarterly or annually, or the FR Y-7NS annually, predominantly based on asset size thresholds. The FR Y-7Q is used to assess consolidated regulatory capital and asset information from all foreign banking organizations. The FR Y-7Q is filed quarterly by foreign banking organizations that have effectively elected to become or be treated as a U.S. financial holding company and by foreign banking organizations that have total consolidated assets of \$50 billion or more, regardless of financial holding company status. All other foreign banking organizations file the FR Y-7Q annually.

Legal authorization and confidentiality: With respect to foreign banking organizations and their subsidiary intermediate holding companies, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require foreign banking organizations and any subsidiary thereof to file the FR Y-7N reports, and the FR Y-7Q. Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of the FOIA if the data has not previously been publicly disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of the FOIA if the release of the information would constitute a clearly unwarranted

invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of the FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

4. *Report title:* Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations and the Abbreviated Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations.

Agency form number: FR 2314 and FR 2314S.

OMB control number: 7100-0073.

Effective date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Frequency: Quarterly and annually.

Respondents: U.S. state member banks, bank holding companies, savings and loan holding companies, intermediate holding companies, and Edge or agreement corporations.

Estimated number of respondents: FR 2314 (quarterly): 439; FR 2314 (annually): 239; FR 2314S: 300.

Estimated annual burden hours: FR 2314 (quarterly): 12,643 hours; FR 2314 (annually): 1,768 hours; FR 2314S: 300 hours.

General description of report: The FR 2314 family of reports is the only source of comprehensive and systematic data on the assets, liabilities, and earnings of the foreign nonbank subsidiaries of U.S. banking organizations, and the data are used to monitor the growth, profitability, and activities of these foreign companies. The data help the Board identify present and potential problems of these companies, monitor their activities in specific countries, and develop a better understanding of activities within the industry and within specific institutions. Parent organizations (state member banks, Edge and agreement corporations, or holding companies) file the FR 2314 on a quarterly or annual basis, or the FR 2314S on an annual basis, predominantly based on whether the organization meets certain asset size thresholds.

Legal authorization and confidentiality: The Board has the authority to require bank holding companies and any subsidiary thereof, savings and loan holding companies and any subsidiary

thereof, and securities holding companies and any affiliate thereof to file the FR 2314 pursuant to, respectively, section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10(b) of the Homeowners' Loan Act (12 U.S.C. 1467a(b)), and section 618 of the Dodd-Frank Act (12 U.S.C. 1850a). The Board has the authority to require state member banks, agreement corporations, and Edge corporations to file the FR 2314 pursuant to, respectively, sections 9(6), 25(7), and 25A(17) of the Federal Reserve Act (12 U.S.C. 324, 602, and 625). With respect to foreign banking organizations and their subsidiary intermediate holding companies, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require foreign banking organizations and any subsidiary thereof to file the FR 2314 reports. These reports are mandatory.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of the FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of the FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of the FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

Current actions: The interim final rule adjusts for community banking organizations the measurement dates for certain total asset thresholds that would otherwise trigger additional information collection requirements for the remainder of calendar years 2020 through the end of 2021. The temporary relief applies only to filing requirements associated with asset-based reporting thresholds of \$10 billion or less. Table 1 of the interim final rule contains a summary of

affected reports, reporting applicability for 2020-2021, and the dates for determining reporting requirements for 2022.

To implement the interim final rule, the Board is temporarily revising the instructions for the following reports: FR Y-9C, FR Y-9LP, FR Y-11, FR Y-11S, FR Y-7N, FR Y-7NS, FR 2314, and FR 2314S. The revised instructions instruct community banking organizations to use the lesser of total assets as of December 31, 2019, or the most recent applicable measurement period to determine the applicability of asset-based filing thresholds for the remainder of calendar years 2020 through the end of 2021. All reporting eligibility criteria for these information collections, besides the temporarily revised total assets measurement date, continue to apply. Financial institutions must revert back to normal rules for determining applicability of the reporting requirements in calendar year 2022, as summarized in Table 1.

The Board believes the changes to the measurement dates for the total asset thresholds used to determine additional reporting requirements will not result in a change in the burden estimates currently approved by OMB. Therefore, the burden estimates for these reports remain unchanged by the interim final rule.

The FR Y-9C instructions currently contain filing thresholds of \$5 billion and \$10 billion that trigger the reporting of additional schedules and the reporting of certain data items at a higher frequency. These thresholds would be impacted by the changes in the interim final rule. Whether additional FR Y-9C requirements apply would normally be based on total consolidated assets as of June 30 of the prior year. With the revisions in the interim final rule, community banking organizations may instead use the lesser of total consolidated assets as of December 31, 2019, or June 30, 2020, to determine whether additional filing requirements are applicable.

Specifically, the additional filing requirements for the FR Y-9C that would otherwise be triggered by the \$5 billion and \$10 billion threshold are as follows:

- The \$5 billion threshold requires these holding companies to report Schedule HI-C, Part I, Disaggregated Data on the Allowance for Loan and Lease Losses; Schedule HC-D, Trading

Assets and Liabilities; Schedule HC-P, 1-4 Family Residential Mortgage Banking Activities in Domestic Offices; Schedule HC-Q, Assets and Liabilities Measured at Fair Value; Schedule HC-S, Servicing, Securitization, and Asset Sale Activities; and Schedule HC-V, Variable Interest Entities.

- The \$5 billion threshold requires these holding companies to report Schedule HI item 1.e, interest income from trading assets; Schedule HI item 2.c, interest on trading liabilities and other borrowed money; Schedule HI item 2.d, interest on subordinated notes and debentures and on mandatory convertible securities; Schedule HI item 5.c, trading revenue; Schedule HI items 5.d.(1) through 5.d.(5), related to various fees and commissions on securities brokerage investments, investment banking, and insurance; Schedule HI item 5.e, venture capital revenue; Schedule HI item 5.g, net securitization income; Schedule HI Memoranda item 1, net interest income on a fully taxable equivalent basis; Schedule HI Memoranda item 2, net income before applicable income taxes, and discontinued operations; Schedule HI Memoranda items 8.a.(1) through 8.b.(2), discontinued operations and applicable income tax effect; Schedule HI Memoranda items 9.a through 9.e, related to trading revenue; Schedule HI Memoranda item 11, credit losses on derivatives; Schedule HI Memoranda items 12.a through 12.c, detail pertaining to income from the sale and servicing of mutual funds and annuities (in domestic offices); Schedule HI Memoranda items 14.a. through 14.b.(1), related to net gains (losses) recognized in earnings on assets and liabilities that are reported at fair value under a fair value option; Schedule HI Memoranda item 15, stock-based employee compensation expense; Schedule HI-B, Part I, items 4.a and 4.b, columns A and B, commercial and industrial loans; Schedule HI-B, Part I, item 6, columns A and B, loans to foreign governments and official institutions; Schedule HI-B, Part I, items 8.a and 8.b, lease finance receivables; Schedule HI-B, Part I, Memoranda item 2, columns A and B, loans secured by real estate to non-U.S. addressees; Schedule HI-B, Part I, Memoranda item 3, uncollectible retail credit card fees and finance charges reversed against income; Schedule

HI-B, Part II, Memoranda item 1, allocated transfer risk reserve; Schedule HI-B, Part II, Memoranda item 2, separate valuation allowance for uncollectible retail credit card fees and finance charges; Schedule HI-B, Part II, Memoranda item 3, allowance for loan and lease losses attributable to retail credit card fees and finance charges; Schedule HI-B, Part II, Memoranda item 4, allowance for post-acquisition credit losses on purchased credit-impaired loans; Schedule HC-B, items 4.a.(1) through 4.a.(3), residential pass-through securities; Schedule HC-C, items 4.a and 4.b, commercial and industrial loans; Schedule HC-C, items 9.b.(1) through 9.b.(2), column A and B, loans for purchasing or carrying securities and all other loans; Schedule HC-C, items 10.a and 10.b, column A, lease financing receivables; Schedule HC-C Memoranda items 1.e.(1) and 1.e.(2), commercial and industrial loans; Schedule HC-C Memoranda item 3, loans secured by real estate to non-U.S. addressees; Schedule HC-C Memoranda item 4, outstanding credit card fees and finance charges; Schedule HC-C Memoranda items 12.a through 12.d, loans and leases held for investment (not subject to the requirements of FASB ASC 310-30) that are acquired in business combinations with acquisition dates in the current calendar year; Schedule HC-K, item 4.a, trading assets; Schedule HC-L item 1.b.(1), unused consumer credit card lines; Schedule HC-L 1.b.(2), other unused credit card lines; Schedule HC-L item 1.d, securities underwriting; Schedule HC-L items 2.a and 3.a, financial and performance standby letters of credit conveyed to others; Schedule HC-L items 7.a through 7.d.(2)(b), related to credit derivatives; Schedule HC-L items 11.a through 14.b.(2), pertaining to derivatives positions; Schedule HC-M items 6.a.(1)(a)(1) through 6.d, pertaining to assets covered by loss-sharing agreements with the Federal Deposit Insurance Corporation; Schedule HC-N, items 8.a and 8.b, columns A, B, and C; Schedule HC-N items 12.a.(1)(a) through 12.f, pertaining to loans and leases which are covered by loss-sharing agreements with the Federal Deposit Insurance Corporation; Schedule HC-N Memoranda items 1.e.(1) and 1.e.(2), columns A, B, and C,

commercial and industrial loans; and Schedule HC-N Memoranda item 6, fair value of derivative contract amounts carried as assets.

- The \$5 billion threshold requires these holding companies to report quarterly rather than annual Schedule HI Memoranda items 6.a through 6.j, other noninterest income; Schedule HI Memoranda items 7.a through 7.p, other noninterest expense; and Schedule HI Memoranda 16, noncash income from negative amortization on closed-end loans secured by 1-4 family residential properties; and quarterly rather than semi-annual, Schedule HI Memoranda item 17, other-than-temporary impairment losses on held-to-maturity and available-for-sale debt securities recognized in earnings; Schedule HI-C, Part II, items 7 through 11, disaggregated data on the allowance for credit losses; Schedule HC-C Memoranda items 1.a.(1) through 1.f.(3)(c), pertaining to loans restructured in troubled debt restructurings that are in compliance with their modified terms; Schedule HC-N Memoranda items 1.a.(1) through 1.d.(2) and 1.e.(3) through 1.f.(3)(c), related to loans restructured in troubled debt restructurings that are in compliance with their modified terms; Schedule HC-R, Part II, items 1 through 25, columns A through U, risk-weighted assets; Schedule HC-R, Part II Memoranda item 1, current credit exposure across all derivative contracts; Schedule HC-R, Part II Memoranda item 2, columns A, B, and C, notional principal amounts of over-the-counter derivative contracts; and Schedule HC-R, Part II, Memoranda item 3, columns A, B, and C, notional principal amounts of centrally cleared derivatives contracts.
- The \$10 billion threshold requires these holding companies to report Schedule HI Memoranda items 10.a and 10.b, related to net gains/losses on credit derivatives; Schedule HC-B Memoranda items 5.a through 5.f, related to asset-backed securities; Schedule HC-B Memoranda items 6.a through 6.g, related to structured financial products by underlying collateral or reference assets; Schedule HC-L item 15, pertaining to the additional information on over-the-counter derivatives; and Schedule HC-S items 6 and 10, and Schedule HC-S Memoranda item 3, related to securitization activity. Holding companies that

cross the \$10 billion threshold would be ineligible to opt-in into the community bank leverage ratio framework and would be required to file the additional Schedule HC-R, Part I and HC-R, Part II line items.

The Board has determined that the temporary revisions to these collections of information must be instituted quickly and that public participation in the approval process would defeat the purpose of the collections. Delaying the revisions would cause public harm if firms were adversely affected due to participating in the PPP or had to bear temporary compliance costs.

In addition, the Board proposes to extend the collections of information for three years with the revisions discussed above.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)³⁴ requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.³⁵ 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). As discussed previously, consistent with section 553(b)(B) of the APA, the agencies have determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the agencies are not issuing a notice of proposed rulemaking. Accordingly, the agencies have concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

Nevertheless, the agencies seek comment on whether, and the extent to which, the interim final rule would affect a significant number of small entities.

E. Riegle Community Development and Regulatory Improvement Act of 1994

³⁴ 5 U.S.C. 601 et seq.

³⁵ Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$600 million or less and trust companies with total assets of \$41.5 million or less. See 13 CFR 121.201.

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA)³⁶ requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that 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, disclosures, or other new requirements on insured depository institutions 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.³⁷ The agencies have determined that the final rule would not impose additional reporting, disclosure, or other requirements; therefore, the requirements of the RCDRIA do not apply.

F. Unfunded Mandates Reform Act of 1995

As a general matter, the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531 et seq., requires the preparation of 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 published. See 2 U.S.C. 1532(a). Therefore, because the OCC has found good cause to dispense with notice and comment for this interim final rule, the OCC has not prepared an economic analysis of the rule under the UMRA.

³⁶ 12 U.S.C. 4802(a).

³⁷ 12 U.S.C. 4802.

G. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act³⁸ requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. In light of this requirement, the agencies have sought to present the interim final rule in a simple and straightforward manner and invite comment on the use of plain language. For example:

- *Is the material organized to suit your needs? If not, how could the agencies present the interim final rule more clearly?*
- *Are the requirements in the interim final rule clearly stated? If not, how could the interim final rule be more clearly stated?*
- *Does the interim final rule 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 interim final 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 agencies incorporate to make the interim final rule easier to understand?*

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, Federal savings associations, National banks, Risk

12 CFR Part 4

³⁸ Pub. L. No. 106-102, 113 Stat. 1338, 1471, 12 U.S.C. 4809

Administrative practice and procedure, Freedom of information, individuals with disabilities, Minority businesses, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Women.

12 CFR Part 52

Banks, banking, Reporting and recordkeeping requirements.

12 CFR Part 208

Accounting, Agriculture Banks, Banking, Confidential business information, Consumer protection, Crime Currency, Federal Reserve System, Flood insurance, Insurance, Investments, Mortgages, Reporting and recordkeeping requirements, Securities

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments

12 CFR Part 212

Antitrust, Banks, Banking, Holding companies

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Holding companies, Investments, National banks, Reporting and recordkeeping requirements, Securities

12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

12 CFR Part 235

Accounting, Banks, Banking

12 CFR Part 238

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

12 CFR Part 304

Bank deposit insurance, Banks, banking, Freedom of information, Reporting and recordkeeping requirements.

12 CFR Part 324

Administrative practice and procedure, Banks, banking, Capital, Capital adequacy, Reporting and recordkeeping requirements, State non-member banks, Savings associations.

12 CFR Part 337

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

12 CFR Part 347

Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Credit, Foreign banking, Investments, Reporting and recordkeeping requirements, U.S. investments abroad.

12 CFR Part 348

Antitrust, Banks, Banking, Holding companies, Savings associations.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons stated in the joint preamble, the Office of the Comptroller of the Currency amends chapter I of Title 12 of the Code of Federal Regulations as follows:

PART 3 – CAPITAL ADEQUACY STANDARDS

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

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, 5412(b)(2)(B), and Pub. L. 116-136, 134 Stat. 281.

2. Section 3.12 is amended by adding paragraph (a)(4) to read as follows:

§ 3.12 Community bank leverage ratio framework.

(a) * * *

(4)(i) *Temporary relief.* From [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**] through December 31, 2021, except as provided in paragraph (a)(4)(ii) of this section, the total consolidated assets of a national bank or Federal savings association for purposes of paragraph (a)(2)(ii) of this section shall be the lesser of:

(A) The total consolidated assets reported by the national bank or Federal savings association in its Call Report as of December 31, 2019; and

(B) The total consolidated assets of the national bank or Federal savings association calculated in accordance with the reporting instructions to the Call Report as of the end of the most recent calendar quarter.

(ii) *Reservation of authority.* The temporary relief provided under paragraph (a)(4)(i) of this section does not apply to a national bank or Federal savings association if the OCC determines that permitting the institution to determine its assets in accordance with that paragraph would not be commensurate with the risk posed by the institution. When making this determination, the OCC will consider all relevant factors, including the extent of asset growth of the national bank or Federal savings association since December 31, 2019; the causes of this growth, including whether this growth occurred as a result of a merger or acquisition; whether such growth is likely to be temporary or permanent; whether the national bank or Federal savings association has become involved in any additional activities since December 31, 2019; and the type of assets held by the national bank or Federal savings association. The OCC will notify a national bank or Federal savings association of a determination under this paragraph. A national bank or Federal savings association may, not later than 30 days after the date of a determination by the OCC, inform the OCC, in writing, of why the national bank or Federal savings association should be eligible for the temporary relief. The OCC will make a final determination after reviewing any response.

* * * * *

PART 4 – ORGANIZATION AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM, POST-EMPLOYMENT RESTRICTIONS FOR SENIOR EXAMINERS

SUBPART A – ORGANIZATION AND FUNCTIONS

3. The authority citation for part 4 continues to read as follows: Authority: 5 U.S.C. 301, 552; 12 U.S.C. 1, 93a, 161, 481, 482, 484(a), 1442, 1462a, 1463, 1464 1817(a), 1818, 1820, 1821, 1831m, 1831p-1, 1831o, 1833e, 1867, 1951 *et seq.*, 2601 *et seq.*, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*, 5321, 5412, 5414; 15 U.S.C. 77uu(b), 78q(c)(3); 18 U.S.C. 641, 1905, 1906; 29 U.S.C. 1204; 31 U.S.C. 5318(g)(2), 9701; 42 U.S.C. 3601; 44 U.S.C. 3506, 3510; E.O. 12600 (3 CFR, 1987 Comp., p. 235).

4. Section 4.6 is amended by adding paragraph (d) to read as follows:

§ 4.6 Frequency of examination of national banks and Federal savings associations.

* * * * *

(d) Through December 31, 2021, for purposes of determining eligibility for the 18-month rule described in paragraph (b) of this section, the OCC may determine the total assets of a national bank or Federal savings association by reference to the total assets of the national bank or Federal savings association as reported by the national bank or Federal savings association in its Call Report as of December 31, 2019.

5. Section 4.7 is amended by adding paragraph (d) to read as follows:

§ 4.7 Frequency of examination of Federal agencies and branches.

* * * * *

(d) Through December 31, 2021, for purposes of determining eligibility for the 18-month rule described in paragraph (b) of this section, the OCC may determine total assets of a Federal branch or agency by reference to the total assets of the Federal branch or agency as reported by the Federal branch or agency as of December 31, 2019.

PART 52 – REGULATORY REPORTING

6. The authority citation for part 52 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1463(a), 1464(v), and 1817(a)(12).

7. Add § 52.5 to read as follows:

§ 52.5 Temporary relief.

In determining whether it meets the asset threshold in paragraph (1) of the definition of “covered depository institution” in § 52.5 of this part, for purposes of a report required to be submitted for calendar year 2021, a national bank, Federal savings association, or insured Federal branch may refer to the lesser of its total consolidated assets as reported in its report of condition as of December 31, 2019, and its total consolidated assets as reported in its report of condition for the second calendar quarter of 2020.

Board of Governors of the Federal Reserve System

12 CFR Chapter I

Authority and Issuance

For the reasons stated in the joint preamble, chapter II of title 12 of the Code of Federal Regulations is amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

8. The authority citation for part 208 continues to read as follows:

AUTHORITY: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321-338a, 371d, 461, 481-486, 601, 611, 1814, 1816, 1817(a)(3), 1817(a)(12), 1818, 1820(d)(9), 1833(j), 1828(o), 1831, 1831o, 1831p-1, 1831r-1, 1831w, 1831x, 1835a, 1882, 2901-2907, 3105, 3310, 3331-3351, 3905-3909, 5371, and 5371 note; 15 U.S.C. 78b, 78I(b), 78I(i), 780-4(c)(5), 78q, 78q-1, 78w, 1681s, 1681w, 6801, and 6805; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

Subpart C—Bank Securities and Securities-Related Activities

9. Amend § 208.36 by adding paragraph (b)(3) to read as follows:

§ 208.37 Reporting requirements for State member banks subject to the Securities Exchange Act of 1934.

* * * * *
(b) * * *

(3) Notwithstanding paragraph (b)(1) of this section, a member bank may, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, through December 31, 2021, make the election described in paragraph (b)(1) of this section if it has no foreign offices and had total assets of \$150 million or less, determined based on the lesser of total assets as of December 31, 2019, and total assets as of the end of the bank’s most recent fiscal year. The relief provided under this paragraph (b)(3) of this section does not apply to a member bank if the Board determines that permitting the member bank to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the member bank. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the member bank since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the member bank has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the member bank. In making a determination pursuant to this paragraph (b)(3), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

* * * * *

Subpart D—Miscellaneous Requirements

10. Amend § 208.64 by adding paragraph (d) to read as follows:

§ 208.64 Frequency of examination.

* * * * *

(d)(1) Except as provided in paragraph (c) of this section, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, through December 31, 2021, for purposes of determining eligibility for the extended examination cycle described in paragraph (b) of this section, the total assets of a member bank shall be determined based on the lesser of:

(i) The assets of the member bank as of December 31, 2019; and

(ii) The assets of the member bank as of the end of the most recent calendar quarter.

(2) Nothing in paragraph (d)(1) of this section limits the authority of the Federal Reserve to examine any member bank as frequently as the agency deems necessary pursuant to paragraph (c) of this section.

* * * * *

Subpart K—Forms, Instructions and Reports

11. Amend § 208.121 by revising the definition of “Covered depository institution” to read as follows:

§208.121 Definitions.

* * * * *

Covered depository institution means a state member bank that meets all of the following criteria:

(1) Has less than \$5 billion in total consolidated assets as reported in its report of condition for the second calendar quarter of the preceding year, except that, during the calendar year 2021, a state member bank shall determine whether it meets the requirement in paragraph (1) of this section by using the lesser of its total consolidated assets as reported in its report of condition as of December 31, 2019, and its total consolidated assets as reported in its report of condition for the second calendar quarter of 2020. The relief provided under this paragraph (1) of this section does not apply to a state member bank if the Board determines that permitting the

state member bank to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the state member bank. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the state member bank since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the state member bank has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the state member bank. In making a determination pursuant to this paragraph (1), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

(2) Has no foreign offices, as defined in this section;

(3) Is not required to or has not elected to use 12 CFR part 217, subpart E, to calculate its risk-based capital requirements; and

(4) Is not a large institution or highly complex institution, as such terms are defined in 12 CFR 327.8, or treated as a large institution, as requested under 12 CFR 327.16(f).

* * * * *

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

12. The authority citation for part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1835a, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*, and 5101 *et seq.*; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

Subpart B—Foreign Banking Organizations

13. Amend § 211.26 by adding paragraph (c)(2)(iii) to read as follows:

§ 211.26 Examination of offices and affiliates of foreign banks.

* * * * *

(c) * * *

(2) * * *

(iii)(A) Except as provided in paragraph (c)(2)(iii)(B) of this section, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** through December 31, 2021, for purposes of determining eligibility for the extended examination cycle described in paragraph (c)(2) of this section, the total assets of a branch or agency shall be determined based on the lesser of:

(1) The total assets of the branch or agency as of December 31, 2019; and

(2) The total assets of the branch or agency as of the end of the most recent calendar quarter.

(B) The relief provided under paragraph (c)(2)(iii)(A) of this section does not apply to a branch or agency if the Board determines that permitting the branch or agency to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the branch or agency. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the branch or agency since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the branch or agency has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the branch or agency. In making a determination pursuant to this paragraph (c)(2)(iii)(B), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

* * * * *

PART 212—MANAGEMENT OFFICIAL INTERLOCKS

14. The authority citation for part 212 continues to read as follows:

AUTHORITY: 12 U.S.C. 3201-3208; 15 U.S.C. 19.

15. Amend § 212.2 by adding paragraph (o)(3) to read as follows:

§ 212.2 Definitions.

* * * * *

(o) * * *

(3)(i) Notwithstanding paragraph (o)(1) of this section, and except as provided in paragraph (o)(3)(ii) of this section, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, through December 31, 2021, the term *total assets*, with respect to a depository organization, means the lesser of assets of the depository organization reported on a consolidated basis as of December 31, 2019, and assets reported as of the end of the depository organization's most recent fiscal year on a consolidated basis as of December 31, 2020.

(ii) The relief provided under paragraph (o)(3)(i) of this section does not apply to a depository organization if the Board determines that permitting the depository organization to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the depository organization. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the depository organization since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the depository organization has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the depository organization. In making a determination pursuant to this paragraph (o)(3)(ii), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

* * * * *

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

16. The authority citation for part 217 continues to read as follows:

AUTHORITY: 12 U.S.C. 248(a), 321-338a, 481-486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p-1, 1831w, 1835, 1844(b), 1851, 3904, 3906-3909, 4808, 5365, 5368, 5371, 5371 note, and sec. 4012, Pub. L. 116-136, 134 Stat. 281.

Subpart B—Capital Ratio Requirements and Buffers

17. Amend § 217.12 by adding paragraph (a)(4) to read as follows:

§ 217.12 Community bank leverage ratio framework.

(a) * * *

(4) *Temporary relief for 2020 and 2021.* (i) Except as provided in paragraph (a)(4)(ii) of this section, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, through December 31, 2021, for purposes of determining whether a Board-regulated institution satisfies the criterion in paragraph (a)(2)(ii) of this section, the total consolidated assets of a Board-regulated institution for purposes of paragraph (a)(2)(ii) of this section shall be determined based on the lesser of:

(A) The total consolidated assets reported by the institution in the Call Report, FR Y-9C, or FR Y-9SP, as applicable, as of December 31, 2019; and

(B) The total consolidated assets calculated in accordance with the reporting instructions to the Call Report or to Form FR Y-9C, as applicable, as of the end of the most recent calendar quarter.

(ii) The relief provided under this paragraph (a)(4)(i) does not apply to a Board-regulated institution if the Board determines that permitting the Board-regulated institution to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the Board-regulated institution. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the Board-regulated institution since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the Board-regulated institution has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the Board-regulated institution. In making a determination pursuant to this paragraph (a)(4)(ii), the Board

will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

* * * * *

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

18. 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.

Subpart A—General Provisions

19. Add § 225.10 to subpart A to read as follows:

§225.10 Temporary relief for 2020 and 2021.

(a) Except as provided in paragraph (c) of this section and subject to the provisions of paragraph (d) of this section, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, through December 31, 2021, the consolidated assets, consolidated risk-weighted assets, total consolidated assets, and total assets of a bank holding company for purposes of §§ 225.4(b)(2)(iii)(A) and (B), 225.14(a)(1)(v)(A)(I) and (2), 225.14(a)(1)(vi), 225.23(a)(1)(iii)(A)(I) and (2), 225.24(a)(2)(iv) and (v), and 225.28(b)(11)(vi) shall be determined based on the lesser of each such amount as of December 31, 2019, and as of the otherwise applicable asset measurement date of the relevant paragraph.

(b) Except as provided in paragraph (c) of this section and subject to the provisions of paragraph (d) of this section, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, through December 31, 2021, for purposes of determining the applicability of §§ 224.14(c)(6)(ii), 225.17(a)(6), and 225.23(c)(5)(ii) of this part and appendix C to this part, the *pro forma* consolidated assets of a bank holding company and the consolidated risk-weighted

assets of a bank holding company immediately following consummation of a transaction each shall be calculated as the lesser of:

(1) Such amount calculated as the sum of the assets of each company involved in the proposed business combination, as well as any company with which any such company has combined since December 31, 2019, as of December 31, 2019; and

(2) Such amount calculated as the sum of the assets of each company involved in the proposed business combination as of the end of the most recent calendar quarter.

(c) The relief provided under paragraphs (a) and (b) of this section does not apply to a bank holding company if the Board determines that permitting the bank holding company to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the bank holding company. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the bank holding company since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the bank holding company has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the bank holding company. In making a determination pursuant to this section, the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

(d) Nothing in this section limits the discretion of the Board or its delegatee to disallow the use of any expedited action process, require the submission of additional information in connection with a notice or application, or consider the ability of a bank holding company filing a notice or application under this part to comply with any statutory or regulatory requirements that may be applicable to the bank holding company upon expiration of the relief provided by this section.

PART 235—DEBIT CARD INTERCHANGE FEES AND ROUTING (REGULATION II)

20. The authority citation for part 235 continues to read as follows:

Authority: 15 U.S.C. 1693o-2.

21. The heading for part 235 is revised to read as set forth above.

22. Amend § 235.5 by adding paragraph (a)(4) to read as follows:

§ 235.5 Exemptions.

* * * * *

(a) * * *

(4)(i) *Temporary relief for 2020 and 2021.* Except as provided in paragraph (a)(4)(ii) of this section, for purposes of determining eligibility for the exemption for small issuers described in paragraph (a)(1) of this section, issuer asset size that is calculated as of the end of the calendar year 2020 shall be determined based on the lesser of:

(A) The assets of the issuer, together with its affiliates, as of the end of the calendar year 2019; and

(B) The assets of the issuer, together with its affiliates, as of the end of the calendar year 2020.

(ii) The relief provided under this paragraph (a)(4) does not apply to an issuer if the Board determines that permitting the issuer to determine its assets in accordance with that paragraph would not be commensurate with the asset profile of the issuer. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the issuer since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the issuer has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the issuer. In making a determination pursuant to this paragraph (a)(4)(ii), the Board will apply notice and response

procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

* * * * *

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

23. The authority citation for part 238 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1467a, 1468, 5365; 1813, 1817, 1829e, 1831i, 1972, 15 U.S.C. 78 *l*.

Subpart A—General Provisions

24. Amend § 238.5 by revising paragraph (b) to read as follows:

§238.5 Audit of savings association holding companies.

* * * * *

(b) *Audits required for safety and soundness purposes.* (1) The Board requires an independent audit for safety and soundness purposes if, as of the beginning of its fiscal year, a savings and loan holding company controls savings association subsidiary(ies) with aggregate consolidated assets of \$500 million or more.

(2) Except as provided in paragraph (b)(3) of this section, with regard to a savings and loan holding company's fiscal year beginning in the calendar years 2020 or 2021, the applicability of the requirement in paragraph (b)(1) of this section shall be determined based on the lesser of:

(i) The aggregate consolidated assets of the savings and loan holding company as of December 31, 2019; and

(ii) The aggregate consolidated assets of the savings and loan holding company as of the end of its fiscal year ending in calendar year 2020.

(3) The relief provided under paragraph (b)(2) of this section does not apply to a savings and loan holding company if the Board determines that permitting the savings and loan holding

company to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the savings and loan holding company. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the savings and loan holding company since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the savings and loan holding company has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the savings and loan holding company. In making a determination pursuant to this paragraph (b)(3), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

* * * * *

Subpart F—Savings and Loan Holding Company Activities and Acquisitions

25. Amend § 238.53 by adding paragraph (c)(3) to read as follows:

§ 238.53 Prescribed services and activities of savings and loan holding companies.

* * * * *

(c) * * *

(3)(i) Except as provided in paragraph (c)(3)(ii) of this section, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, until December 31, 2021, the determination of whether a savings and loan holding company must comply with the filing requirements in paragraph (c)(2)(iii) or (iv) of this section shall be made based on the lesser of:

(A) The consolidated assets of the savings and loan holding company as of December 31, 2019; and

(B) The consolidated assets of the savings and loan holding company as of the end of the most recent calendar quarter.

(ii) The relief provided under paragraph (c)(3)(i) of this section does not apply to a savings and loan holding company if the Board determines that permitting the savings and loan holding company to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the savings and loan holding company. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the savings and loan holding company since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the savings and loan holding company has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the savings and loan holding company. In making a determination pursuant to this paragraph (c)(3)(ii), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

* * * * *

Subpart J—Management Official Interlocks

26. Amend §238.92 by adding paragraph (p)(3) to read as follows:

§ 238.92 Definitions.

* * * * *

(p) * * *

(3) *Temporary relief for 2020 and 2021.* Notwithstanding paragraph (p)(1) of this section, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, through December 31, 2021, for purposes of this subpart J, the term *total assets*, with respect to a depository organization, means the lesser of assets of the depository organization reported on a consolidated basis as of December 31, 2019, and assets reported on a consolidated basis as of the end of the most recent fiscal year. The relief provided under this paragraph (p)(3) does not apply to a depository organization if the Board determines that permitting the depository organization

to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the depository organization. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the depository organization since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the depository organization has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the depository organization. In making a determination pursuant to this paragraph (p)(3), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

* * * * *

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends chapter III of Title 12, Code of Federal Regulations as follows:

PART 304— FORMS, INSTRUCTIONS, AND REPORTS

27. The authority citation for part 304 continues to read as follows:

Authority: 12 U.S.C. 1464(v), 1817(a), and 1819 Tenth.

28. Amend §304.12 by adding paragraph (a)(6) to read as follows:

§304.12 Definitions.

(a) * * *

(6) In determining whether an insured depository institution meets the asset threshold in paragraph (1) of the definition of “covered depository institution” in paragraph (a)(1) of this

section, for purposes of a report required to be submitted for calendar year 2021, an insured depository institution may refer to the lesser of its total consolidated assets as reported in its report of condition as of December 31, 2019, and its total consolidated assets as reported in its report of condition for the second calendar quarter of 2020.

PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

29. The authority citation for part 324 is revised to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102-233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102-242, 105 Stat. 2236, 2355, as amended by Pub. L. 103-325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102-242, 105 Stat. 2236, 2386, as amended by Pub. L. 102-550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111-203, 124 Stat. 1376, 1887 (15 U.S.C. 78o-7 note), Pub. L. 115-174; section 4014 § 201, Pub. L. 116-136, 134 Stat. 281 (15 U.S.C. 9052).

30. Amend §324.12 by adding paragraph (a)(4) to read as follows:

§ 324.12—Community bank leverage ratio framework.

(a) * * *

(4)(i) *Temporary relief*—From [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through December 31, 2021, for purposes of determining whether an FDIC-supervised institution satisfies the criterion in paragraph (a)(2)(ii) of this section, except as provided in paragraph (a)(4)(ii) of this section, the total consolidated assets of an FDIC-supervised institution for purposes of paragraph (a)(2)(ii) of this section shall be determined based on the lesser of:

(A) The total consolidated assets reported by the institution in the Call Report as of December 31, 2019; and

(B) The total consolidated assets calculated in accordance with the reporting instructions to the Call Report as of the end of the most recent calendar quarter.

(ii) *Reservation of authority*—The temporary relief provided under this paragraph (a)(4)(i) of this section does not apply to an FDIC-supervised institution if the FDIC determines that permitting the FDIC-supervised institution to determine its assets in accordance with that paragraph would not be commensurate with the risk posed by the institution. When making this determination, the FDIC will consider all relevant factors, including the extent of asset growth of the FDIC-supervised institution since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the FDIC-supervised institution has become involved in any additional activities since December 31, 2019; and the type of assets held by the FDIC-supervised institution. The FDIC will notify an FDIC-supervised institution of a determination under this paragraph. An FDIC-supervised institution may, not later than 30 days after the date of a determination by the FDIC, inform the FDIC, in writing, of why the FDIC-supervised institution should be eligible for the temporary relief. The FDIC will make a final determination after reviewing any response.

* * * * *

PART 337—UNSAFE AND UNSOUND BANK PRACTICES

31. The authority citation for part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1463, 1464, 1468, 1816, 1818(a), 1818(b), 1819, 1820(d), 1821(f), 1828(j)(2), 1831, 1831f, 1831g, 5412.

32. Amend §337.12 by adding paragraph (d) to read as follows:

§ 337.12—Frequency of examination.

* * * * *

(d) From [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through December 31, 2021, for purposes of determining eligibility for the extended examination cycle described in paragraph (b) of this section, the total assets of an institution shall be determined based on the lesser of:

- (1) The assets of the institution as of December 31, 2019; and
- (2) The assets of the institution as of the end of the most recent calendar quarter.

PART 347—INTERNATIONAL BANKING

33. The authority citation for part 347 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 1828, 3103, 3104, 3105, 3108, 3109; Pub. L. 111–203, section 939A, 124 Stat. 1376, 1887 (July 21, 2010) (codified 15 U.S.C. 780–7 note).

34. Amend § 347.211 by adding paragraph (d) to read as follows:

§ 347.211—Examination of branches of foreign banks.

* * * * *

(d) From [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through December 31, 2021, for purposes of determining eligibility for the extended examination cycle described in paragraph (b) of this section, the total assets of an insured branch shall be determined based on the lesser of:

- (1) The assets of the insured branch as of December 31, 2019; and
- (2) The assets of the insured branch as of the end of the most recent calendar quarter.

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

35. The authority citation for part 348 continues to read as follows:

Authority: 12 U.S.C. 1823(k), 3207.

36. Amend §348.2 by adding paragraph (q)(3) to read as follows:

§ 348.2—Other definitions and rules of construction.

* * * * *

(q) * * *

(3)(i) *Temporary relief for 2020 and 2021.* Notwithstanding paragraph (q)(1) of this section, from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through December 31, 2021, except as provided in paragraph (q)(3)(ii) of this section, the term *total assets*, with respect to a depository organization, means the lesser of assets of the depository organization reported on a consolidated basis as of December 31, 2019, and assets reported on a consolidated basis as of December 31, 2020.

(ii) *Reservation of authority.* The temporary relief provided under this paragraph (q)(3)(i) of this section does not apply to an FDIC-supervised institution if the FDIC determines that permitting the FDIC-supervised institution to determine its assets in accordance with that paragraph would not be commensurate with the risk posed by the institution. When making this determination, the FDIC will consider all relevant factors, including the extent of asset growth of the FDIC-supervised institution since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the FDIC-supervised institution has become involved in any additional activities since December 31, 2019; and the type of assets held by the FDIC-supervised institution.

* * * * *

Brian P. Brooks,
Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System.
Ann Misback,
Secretary of the Board.

Federal Deposit Insurance Corporation.
By order of the Board of Directors.
Dated at Washington, DC, on or about November 17, 2020.
James P. Sheesley,
Assistant Executive Secretary.