**FEDERAL RESERVE SYSTEM**

**12 CFR Parts 225 and 252**

**[Regulations Y and YY; Docket No. R-1517]**

**RIN 7100 AE 33**

# Amendments to the Capital Plan and Stress Test Rules

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

**ACTION:** Final rule.

**SUMMARY:** The Board is adopting a final rule that makes targeted amendments to its capital plan and stress test rules. For bank holding companies with more than $10 billion but less than $50 billion in total consolidated assets and savings and loan holding companies with total consolidated assets of more than $10 billion, the final rule modifies certain mandatory capital action assumptions in the stress test rules and delays the application of the company-run stress test requirements to savings and loan holding companies until January 1, 2017. For bank holding companies that have total consolidated assets of $50 billion or more and state member banks that are subject to the Board's advanced approaches capital requirements, the final rule delays the use of the supplementary leverage ratio for one year and indefinitely defers the use of the advanced approaches risk-based capital framework in the capital plan and stress test rules. For bank holding companies that have total consolidated assets of $50 billion or more, the final rule removes the tier 1 common capital ratio requirement, and modifies certain mandatory capital action assumptions. To reflect other recent rulemakings, the final rule also makes other amendments to the capital plan and stress test rules. All changes in the final rule apply as of January 1, 2016, which is the beginning of the next capital planning and stress test cycle.

**DATES: Effective Date:** January 1, 2016.

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**SUPPLEMENTARY INFORMATION:**

## I. Background

Capital planning and stress testing are two key components of the Board's supervisory framework for large financial companies.[1] There are two related components of the framework: the Comprehensive Capital Analysis and Review (CCAR), which is conducted pursuant to the Board's capital plan rule (12 CFR 225.8), and stress testing, which is conducted pursuant to the Board's stress test rules (subparts E and F of Regulation YY) and section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[2] In CCAR, bank holding companies that have total consolidated assets of $50 billion or more (large bank holding

[1] The changes in this final rule will apply to any nonbank financial company supervised by the Board that become subject to the capital planning and stress test requirements. The changes also will apply to U.S. intermediate holding companies of foreign banking organizations in accordance with the transition provisions of the final rule adopting enhanced prudential standards for U.S. bank holding companies and foreign banking organizations with total consolidated assets of $50 billion or more. (79 FR 17240 (March 27, 2014)). In the interest of brevity, references to "large bank holding companies" in the preamble should be read to include all of these companies.

[2] 12 USC 5365(i).

companies) submit capital plans to the Board, and the Board assesses the internal capital planning processes and ability of these firms to maintain sufficient capital to continue their operations under expected and stressful conditions. If the Board objects to the capital plan of a large bank holding company, the company may only make capital distributions for which it has received a non-objection from the Board in writing.[3]

As required under with the Dodd-Frank Act and as a complement to CCAR, the Board conducts annual supervisory stress tests of large bank holding companies, and these bank holding companies must conduct annual and mid-cycle company-run stress tests.[4] In addition, bank holding companies that have total consolidated assets of more than $10 billion but less than $50 billion, savings and loan holding companies that have total consolidated assets of more than $10 billion, and state member banks that have total consolidated assets of more than $10 billion are all required to conduct annual company-run stress tests under the Dodd-Frank Act.[5]

*A. Overview of proposed changes*

On July 17, 2015, the Board issued a proposal to make targeted adjustments to the Board's capital plan and stress test rules for the 2016 capital plan and stress test cycles.[6] For bank holding companies with total consolidated assets of more than $10 billion but less than $50 billion and savings and loan holding companies that have total consolidated assets of more

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[3] 12 CFR 225.8(f)(2)(iv).

[4] See 12 U.S.C. 5365(i)(1) and 12 CFR part 252.

[5] 77 FR 62378 (October 12, 2012) (codified at 12 CFR part 252, subparts E and F). The stress test requirements apply to savings and loan holding companies that are subject to the minimum regulatory capital requirements in 12 CFR part 217. The Board has not applied capital requirements to savings and loan holding companies that are substantially engaged in commercial activities or insurance underwriting activities to date.

[6] 80 FR 43637 (July 23, 2015).

than $10 billion, the proposal would have modified certain mandatory capital action assumptions under the stress test rules and delayed the application of the company-run stress test requirements to these savings and loan holding companies until January 1, 2017. For large bank holding companies and state member banks that are subject to the Board's advanced approaches capital requirements, the proposal would have delayed the use in capital planning and stress testing of the supplementary leverage ratio for one year and deferred the use of the advanced approaches risk-based capital framework indefinitely. For large bank holding companies, the proposal would have removed the tier 1 common capital ratio requirement; and modified certain mandatory capital action assumptions under the stress test rules. The proposal also would have revised the capital plan and stress test rules to clarify the requirement that banking organizations take into account deductions required by 12 CFR 248.12(d) (the Volcker Rule) in calculating their capital ratios.

The Board received five comments on the proposal from banking organizations and trade associations. Commenters generally expressed support for the proposal and also recommended certain additional changes to the capital plan and stress test framework that were not included in the proposal. This preamble provides a summary of comments received on the proposal and the Board's responses to those comments. With respect to the comments that fell outside of the scope of the targeted proposal, the Board will consider these comments if it makes changes to its overall capital plan and stress testing framework in the future.[7]

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[7] See section VI of this preamble, which addresses comments that fell outside of the scope of the proposal.

Section II of the preamble describes revisions to the stress test rules for bank holding companies that have total consolidated assets between $10 billion and $50 billion and savings and loan holding companies that have total consolidated assets of more than $10 billion. Section III of the preamble describes revisions to the capital plan and stress test rules for large bank holding companies and state member banks that are subject to the Board's advanced approaches capital requirements. Section IV of the preamble describes revisions to the capital plan and stress test rules for large bank holding companies. Section V of the preamble describes technical amendments to the capital plan and stress test rules.

*B. Interaction of the capital plan and stress test rules with the regulatory capital rules*

The proposal stated that the Board was considering a broad range of issues relating to the capital plan and stress test rules, including how the rules interact with other elements of the regulatory capital rule and whether any modifications may be appropriate.[8] The proposal also stated that the Board did not anticipate proposing further changes that would affect the 2016 capital plan and stress test cycle.

The capital plan rule requires companies to assume that capital actions planned in baseline conditions will be executed throughout the adverse and severely adverse supervisory scenarios. While the proposal did not include changes to this requirement, commenters nevertheless provided views on it. In particular, commenters argued that this requirement does not reflect bank holding companies' internal capital management policies, and noted that the Board has supervisory authority to require banks to preserve capital in times of stress. In addition, commenters asserted that the assumption that planned capital distributions would be

[8] 12 CFR part 217.

made in times of stress would be inconsistent with restrictions on capital distributions and certain discretionary bonus payments imposed by the regulatory capital rule's capital conservation buffer. Commenters recommended that the Board revise its approach to capital action assumptions before the next stress test and capital plan cycle in light of the phase-in of the capital conservation buffer. In addition, several commenters expressed the view that large bank holding companies' capital plans should continue to be evaluated with regard to only minimum regulatory capital requirements. The commenters stated that such firms should not be evaluated against post-stress requirements that are increased by the amount of the capital conservation buffer or the risk-based capital surcharge for global systemically important bank holding companies (GSIB surcharge).

In its assessment of a large bank holding company's capital plan, the Federal Reserve generally makes conservative assumptions to account for uncertainty in the timing and nature of losses that a large bank holding company may experience under stress. During a financial crisis, losses tend to occur suddenly and unpredictably. Because of this, the Federal Reserve requires large bank holding companies to assume that they continue to make capital distributions – even during a period of financial stress – until losses are unavoidable or realized. This assumption helps to ensure that a large bank holding company would remain sufficiently capitalized even if the timing of the losses were different or more sudden than those projected in the severely adverse scenario.

With regard to the capital conservation buffer, the Board continues to assess how and to what extent, if any, to incorporate it into the capital plan and stress test rules. As noted, the conservative assumptions in the capital plan and stress test rules, such as the assumption that large bank holding companies will not cut dividends in a stress period, help to promote greater

resiliency, and incorporating the capital conservation buffer into the rules in a mechanical manner could work at cross purposes with the goal of greater resiliency.

## II. Revisions to Stress Test Rules for Bank Holding Companies with Total Consolidated Assets between $10 Billion and $50 Billion, and Savings and Loan Holding Companies with Total Consolidated Assets of More Than $10 Billion.

### *A. Modification of mandatory dividend assumptions*

Since they were first adopted in 2012, the stress test rules have required bank holding companies and savings and loan holding companies to assume that they continue to pay dividends at their current rate and issue no capital (other than that related to expensed employee compensation) and redeem no capital instruments in the second through ninth quarters of the planning horizon. The proposed rule would have eliminated the requirement that bank holding companies that have total consolidated assets between $10 billion and $50 billion and savings and loan holding companies that have total consolidated assets of more than $10 billion use fixed assumptions regarding dividends in their stress tests.[9] These bank holding companies and savings and loan holding companies instead would have been required to incorporate reasonable assumptions regarding payments of dividends consistent with internal capital needs and projections.

This aspect of the proposal was intended to be responsive to concerns raised by banking organizations that dividends paid at the holding company level are often funded directly through a subsidiary bank's capital distributions to the holding company. Subsidiary banks may be subject to dividend restrictions, which would impair the funding of the holding company's

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[9] The proposed rule and final rule maintain the mandatory assumptions relating to the redemption or repurchase of any regulatory capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio.

dividends, and in such cases the assumptions required under the stress test rules would be inconsistent with the bank holding company's actual dividend capacity. Commenters generally supported the removal of fixed dividend assumptions in the stress testing requirements for these firms. After considering the comments, the Board is finalizing the revision as proposed.

Commenters separately requested that the Board eliminate the fixed dividend assumptions for large bank holding companies. Commenters argued that large bank holding companies also rely on their subsidiary banks to fund dividends at the holding company level. Several commenters asserted that this revision for large bank holding companies would make the dividend payment assumptions more realistic and would result in stress tests that more closely reflect large bank holding companies' internal policies and practices.

Unlike bank holding companies with total consolidated assets between $10 billion and $50 billion, large bank holding companies are subject to the capital plan rule, and are required to incorporate their planned capital actions in their post-stress capital analysis. Thus, large bank holding companies already incorporate more realistic dividend assumptions into their capital plans. In addition, providing a common set of fixed dividend assumptions in the stress test rule for large bank holding companies supports the goal of comparability in stress test disclosures. Accordingly, the final rule does not eliminate fixed dividend assumptions for large bank holding companies.

*B. Modification to the mandatory capital action issuance assumptions*

The proposed rule would have modified the mandatory capital action assumptions in the stress test rules to permit a bank holding company or savings and loan holding company to

assume that it issues capital associated with funding a planned acquisition.[10] Specifically, to the extent that a bank holding company or savings and loan holding company includes a merger or acquisition in its balance sheet projections, it would have been required to reflect any related stock issuance in its stress test.

Commenters supported the proposed revisions to the issuance assumptions in the stress test rules, indicating that they would better align capital action assumptions. After considering the comments, the Board is finalizing these provisions as proposed.

*C. Company run stress test transition provisions for certain savings and loan holding companies*

Savings and loan holding companies that have total consolidated assets of more than $10 billion must conduct annual company-run stress tests under the Dodd-Frank Act.[11] Under the Board's stress test rule implementing this requirement, a savings and loan holding company that is subject to the Board's minimum regulatory capital requirements and that has total consolidated assets greater than $10 billion is subject to these requirements. The stress test rules that the Board adopted in October 2012 provided a two-year transition period for these savings and loan holding companies to comply with the stress test requirements. However, the October 2014 revisions to the capital plan and stress test rules (October 2014 revisions) resulted in a shortening of this initial transition period to one year.[12]

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[10] While the preamble did not address this change, the proposed regulatory text applied this change to all holding companies.

[11] Currently, savings and loan holding companies are not subject to the Board's capital plan rule or supervisory stress tests, regardless of size.

[12] 79 FR 64026 (October 27, 2014).

The proposed rule would have delayed for one additional stress test cycle the application of the company-run stress test rules to saving and loan holding companies that have total consolidated assets of more than $10 billion, such that these savings and loan holding companies would have become subject to the stress test rules for the first time beginning on January 1, 2017. Accordingly, savings and loan holding companies that have total consolidated assets of more than $50 billion would have reported their stress test results by April 5, 2017, and those that have total consolidated assets of less than $50 billion would have reported results by July 31, 2017.

Commenters supported the proposed delay in the initial application of the stress test requirements for these savings and loan holding companies, and requested that the application of the stress testing requirements to other savings and loan holding companies and nonbank financial companies supervised by the Board be delayed even further. Commenters argued that companies primarily engaged in insurance underwriting activity will need a reasonable amount of time to implement the stress testing requirements after becoming subject to regulatory capital requirements. One commenter suggested a minimum two-year transition period for savings and loan holding companies engaged in insurance underwriting activity and for insurance companies designated as systemically important by the Financial Stability Oversight Council, which are not subject to the stress test rules unless made subject pursuant to a rule or order of the Board.

Consistent with the proposal, under the final rule, savings and loan holding companies that are currently subject to the Board's regulatory capital rules would have an additional year, until 2017, to conduct their first stress test. Savings and loan holding companies that are not subject to the Board's regulatory capital rules will not be required to conduct their first stress test until after they become subject to the regulatory capital rules and thus should have adequate time

to develop the systems necessary to conduct stress testing. With respect to nonbank financial companies supervised by the Board that are engaged in insurance activities, the Board will continue to monitor and assess their activities and would consider these activities, as well as their risk profile, in considering whether to apply the stress test rules to such companies by rule or order.

## III. Revisions to the Capital Plan and Stress Test Rules for Large Bank Holding Companies and State Member Banks Subject to the Advanced Approaches.

The changes relating to the use of the supplementary leverage ratio and the advance approaches only apply to bank holding companies and state member banks that are subject to the advanced approaches risk-based capital framework, as well as any savings and loan holding company that becomes subject to the advanced approaches in the future.

### *A. Delay of inclusion of the supplementary leverage ratio requirement*

The supplementary leverage ratio requirement in the Board's capital rules applies to large bank holding companies and state member banks that are subject to the advanced approaches risk-based capital framework.[13] For these banking organizations, the proposed rule would have delayed the incorporation of the supplementary leverage ratio requirement into the capital plan and stress test rules for one year, until 2017.

Commenters were generally supportive of delaying the incorporation of the supplementary leverage ratio requirement until 2017, and noted that this provision would allow

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[13] Banking organizations that are subject to the advanced approaches risk-based capital framework are banking organizations with total consolidated assets of $250 billion or more, that have total consolidated on-balance sheet foreign exposure of $10 billion or more, are a subsidiary of a depository institution that uses the advanced risk-based capital approaches framework, or that elect to use the advanced risk-based capital approaches framework. See 12 CFR part 217, subpart E.

banking organizations time to develop the systems necessary to project the supplementary leverage ratio under stressed conditions. One commenter argued that the supplementary leverage ratio requirement should be excluded indefinitely from the capital plan and stress test rules. The commenter asserted that the supplementary leverage ratio was intended to be a backstop to the Board's risk-based capital rule, and expressed concern that it could become a binding constraint on regulatory capital if included in the capital plan and stress test requirements. The commenter noted that a binding supplementary leverage ratio may distort firms' incentives with respect to risk-taking because it does not reflect the level of risk associated with particular assets in determining capital requirements, and could compromise other regulatory initiatives, such as the liquidity coverage ratio and margin requirements.

Notwithstanding these arguments, a post-stress leverage ratio requirement has been a requirement in the stress test and capital plan rules since their inception. The leverage ratio requirement continues to serve as an important backstop as it guards against possible weaknesses in the risk-based capital requirements, such as the possibility of understating the risk of certain assets. The addition of the supplementary leverage ratio requirement in the capital plan and stress test rules will further strengthen this backstop function as it will include a measure of off-balance sheet exposures in addition to all on-balance sheet items. Accordingly, the final rule retains the one-year delay in implementation of the supplementary leverage ratio for purposes of capital planning and stress testing. The Federal Reserve will continue to monitor the amount of capital required under both the risk-based and leverage ratios in CCAR and under the related stress tests.

*B. Deferral of Use of the Advanced Approaches*

The proposed rule would have deferred indefinitely the use of the advanced approaches for calculating risk-based capital ratios under the capital plan and stress test rules. Thus, large bank holding companies and state member banks that are subject to the advanced approaches risk-based capital framework would have been required to project risk-weighted assets using only the standardized approach until such time as the Board requires the use of advanced approaches in stress testing and capital planning. The Board proposed this revision in light of banking organizations' concerns that the use of advanced approaches in the capital plan and stress test rules would require significant resources and would introduce complexity and opacity without a clear prudential benefit.

Commenters supported the proposed revision to delay the use of advanced approaches until further notice. After reviewing these comments, the Board is finalizing this revision as proposed.

## IV. Revisions to the Capital Plan and Stress Test Rules for Large Bank Holding Companies.

*A. Elimination of the tier 1 common capital ratio requirement*

The proposed rule would have removed the requirement that a large bank holding company demonstrate its ability to maintain a pro forma tier 1 common capital ratio of five percent of risk-weighted assets under expected and stressed scenarios. The Board introduced the tier 1 common capital ratio requirement in 2009 as part of the Supervisory Capital Assessment Program to assess the level of high-quality, loss-absorbing capital held at the largest U.S. bank

holding companies.[14] At that time, the Board noted that it expected the tier 1 common capital ratio requirement to remain in force until the Board adopted a minimum common equity capital requirement.[15] In 2013, the Board revised its regulatory capital rules to strengthen the quality and quantity of regulatory capital held by banking organizations and, introduced a minimum common equity tier 1 capital requirement of 4.5 percent of risk-weighted assets.[16]

Nearly all commenters expressed support for the proposed removal of the tier 1 common capital ratio requirement from the capital plan and stress test rules. The Board agrees with commenters that removing the tier 1 common capital ratio requirement at this time is appropriate in light of the implementation in the regulatory capital rules of the minimum common equity tier 1 capital requirement equal to 4.5 percent of risk-weighted assets, effective on January 1, 2015.[17]

The regulatory capital rule's required adjustments and deductions from common equity tier 1 capital will be fully phased in by January 1, 2018, which is the ninth quarter of the planning horizon of the capital plan and stress test cycle that begins on January 1, 2016.[18] Due to the implementation of these mandatory adjustments and deductions, the minimum common equity tier 1 capital requirement is generally expected to require more capital than the current tier 1 common capital ratio requirement in forthcoming stress test and capital plan cycles. Further,

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[14] See "The Supervisory Capital Assessment Program: Overview of Results," May 7, 2009, available at http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20090507a1.pdf.

[15] Id.

[16] The Board and the OCC issued a joint final rule on October 11, 2013 (78 FR 62018), and the FDIC issued a substantially identical interim final rule on September 10, 2013 (78 FR 55340). In April 2014, the FDIC adopted the interim final rule as a final rule with no substantive changes. 79 FR 20754 (April 14, 2014).

[17] Id.

[18] Id.

removing the tier 1 common capital ratio requirement would reduce the burden on large bank holding companies by no longer requiring them to maintain legacy systems and processes necessary for calculating the tier 1 common capital ratio requirement. The Board is therefore finalizing the provision as proposed.

*B. Modification of certain mandatory capital action assumptions*

As noted above, the stress test rules require large bank holding companies to assume that they continue to pay dividends at their current rate, issue no capital (other than that related to expensed employee compensation), and redeem no capital instruments in the second through ninth quarters of the planning horizon. These assumptions were designed to ensure that the publicly disclosed results of company run stress tests would be comparable across institutions, and to reflect common macroeconomic scenarios on firms' net income and capital rather than company-specific assumptions about capital issuances and redemptions.

The proposal would have included two modifications to these capital action assumptions. First, it would have required a large bank holding company to assume it issues capital associated with funding a planned merger or acquisition. Under the proposal, to the extent that a large bank holding company is required to include an acquisition in its balance sheet projections, the large bank holding company would have been required to include any stock issuance associated with funding the acquisition in its stress test. Second, the proposal would have modified dividend assumptions in the stress test rules to require large bank holding companies to reflect dividends associated with expensed employee compensation. Specifically, the proposal would have required a firm to assume that it pays planned dividends on any issuance of stock related to expensed employee compensation.

Commenters supported the proposed revisions to the dividend and issuance assumptions in the stress test rules. Commenters indicated that these changes would better align capital action assumptions with business plan changes required when a banking organization is considering an acquisition and would enhance the efficiency of the stress test process.

While not included in the proposal, to remain consistent with the treatment of dividends related to expensed employee compensation discussed above, the final rule also requires a large bank holding company to assume that it pays planned dividends on any issuance of stock related to the funding of a planned merger or acquisition to the extent that the company is required to include such merger or acquisition in its balance sheet projections.

The modification to the capital action assumptions in the stress test rules regarding dividends and issuances associated with business plan changes is in keeping with the general principle that stress tests should capture the expected impact to both assets and capital related to business plan changes. For example, the capital action assumptions allow a company to include planned issuances of stock associated with expensed employee compensation. This is because expensed employee compensation will appear as an expense, thus the company should also receive recognition for a related issuance of capital.

## V. Technical Amendments to the Capital Plan and Stress Test Rules.

The proposed rule included amendments to the capital plan and stress test rules to incorporate changes related to other rulemakings. The proposed rule would have removed references to the risk-based capital rules in Regulation Y (12 CFR part 225) that were no longer operative. In addition, the proposal would have amended the definition of minimum regulatory capital ratio in 12 CFR 225.8(d)(8) and the definition of regulatory capital ratio in 12 CFR 252.12(n), 12 CFR 252.42(m), and 12 CFR 252.52(n) to incorporate the deductions

required under 12 CFR 248.12(d) (the Volcker Rule). Although the Volcker Rule requires a banking organization to deduct from tier 1 capital its aggregate investments in covered funds (as defined in 12 CFR. 248.10(b)), these required deductions are not, however, reflected in Regulation Q (12 CFR part 217). Accordingly, the proposed rule would have revised the regulatory text of the above-referenced definitions to include the required deductions under the Volcker Rule in the definition of regulatory capital ratio and minimum regulatory capital ratio.

Commenters expressed that the view that incorporating the Volcker Rule deductions into the capital plan and stress test rules was premature. At least one commenter argued that in issuing the proposed rule, the Board interpreted the Volcker deductions without the consensus of the other U.S. banking agencies, and that these interpretations could have implications for the broader industry beyond the institutions covered by the stress test and capital plan rules. These commenters requested that the Board delay incorporating deductions associated with the Volcker Rule in the capital plan and stress test rules until the U.S. banking agencies provide guidance regarding the operation and calculation of the deduction for purposes of the regulatory capital framework, subject to proper notice and comment.

The proposed modifications to the capital plan and stress test rules would not establish new expectations or requirements regarding the interaction between the Volcker Rule and the regulatory capital framework. The Board has provided additional guidance to bank holding companies on how to reflect Volcker deductions in their pro forma regulatory capital ratios under the stress test and capital plan rules.[19] Thus, the Board is finalizing these two aspects of the

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[19] *See* Supervision and Regulation Letter SR 15–13 (November 6, 2015), available at: https://fedweb.frb.gov/fedweb/bsr/srltrs/sr1513.pdf.

proposal, specifically, the deletion of references to Regulation Y and incorporation of deductions from capital required under the Volcker Rule, without change.

## VI. Other comments received on the proposal

### *A. Regulatory Burden and Transparency*

Commenters encouraged the Board to continue efforts to increase transparency and understanding of the capital plan and stress test processes. In particular, commenters noted that in recent years, greater emphasis has been placed on qualitative factors in capital plan and stress test assessments and thus requested that the Board provide more information regarding the qualitative factors that are used to evaluate a firm's capital plan. These commenters requested that the Board provide instructions and scenarios as early as possible to facilitate a more robust capital planning process. A commenter noted that the Board's "Capital Planning at Large Bank Holding Companies: Supervisory Expectations and Range of Current Practice" document issued in August 2013 was extremely useful and requested that it be updated annually to aid large bank holding companies in improving their capital planning processes and preparing their annual capital plans. One commenter also supported efforts by the Board to review the regulatory burden placed on financial institutions as a result of the establishment of Dodd-Frank Act regulations.

The Board continues to seek ways to improve its capital plan and stress test framework, including by taking into consideration industry feedback. For instance, last year, the Board adjusted the timeframe for the annual capital plan and stress test exercise in order to address resource constraints for banking organizations near the end of the year. This final rule also includes several changes that are responsive to public comments, including removal of the tier 1 common ratio and deferral of the supplementary leverage ratio for one year.

*B. Uniform tax rate assumption*

For purposes of the stress test and capital plan rules, the Board applies a uniform tax rate to project after-tax net income for all bank holding companies. One commenter raised the concern that this assumption could have a material impact on after-tax income, and accordingly, on capital positions and the Board's assessment decision of whether to object to a capital plan. The commenter further noted that there are a number of circumstances where a simplifying tax assumption could materially understate capital, and requested that the Board use the tax calculations prepared by the bank holding company in accordance with Generally Accepted Accounting Principles as a starting point for supervisory tax projections. The commenter also requested that the Board should only apply the common tax rate to the marginal pre-tax net income (loss) and pre-tax other comprehensive income that exceeds the firm's projections. As an alternative, the commenter suggested that additional tax information be collected in the annual submissions to inform the Board's tax calculations.

The use of a common supervisory tax rate supports the consistent application of assumptions and models across firms. Accordingly, the final rule does not alter the assumption of a common supervisory tax rate.

## VII. Administrative Law Matters

*a. Riegle Act*

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act) requires a federal banking agency to consider the benefits and any administrative burdens that new regulations and amendments to regulations prescribed by a federal banking agency that impose additional reporting, disclosures, or other new requirements on an insured depository institution, and, subject to certain exceptions, provides that such

regulations shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.[20] As noted, the final rule clarifies the interaction between the Volcker Rule and the regulatory capital framework but does not impose new requirements in this regard. In addition, the delay of the use of the supplementary leverage ratio and of the advanced approaches risk-based capital framework generally reduce burden on state member banks that are subject to the advanced approaches. Accordingly, the final rule does not impose any additional reporting or disclosure requirements on state member banks. In addition, consistent with Section 302 of the Riegle Act, the requirements in the final rule will take effect on the first day of a calendar quarter after the date on which the final rule is published in final form.

*b. Paperwork Reduction Act*

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed this final rule under the authority delegated to the Board by the OMB and determined that it contains no collections of information. No public comments on the PRA were received when the proposed rule was published.

*c. Regulatory Flexibility Act Analysis*

The Board has considered the potential impact of the final rule on small companies in accordance with the Regulatory Flexibility Act (5 U.S.C. 603(b)). Based on its analysis and for the reasons stated below, the Board believes that the final rule will not have a significant

[20] 12 U.S.C. 4802.

economic impact on a substantial number of small entities. Nevertheless, the Board is publishing a final regulatory flexibility analysis.

Under regulations issued by the Small Business Administration ("SBA"), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $550 million or less (a small banking organization).[21] The final rule will apply to bank holding companies, savings and loan holding companies, and state member banks with total consolidated assets of $10 billion or more. Companies that will be subject to the final rule therefore substantially exceed the $550 million total asset threshold at which a company is considered a small company under SBA regulations. In light of the foregoing, the Board does not believe that the final rule will have a significant economic impact on a substantial number of small entities.

*d. Solicitation of Comments on Use of Plain Language*

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

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[21] *See* 13 CFR 121.201. Effective July 14, 2014, the SBA revised the size standards for banking organizations to $550 million in assets from $500 million in assets. 79 FR 33647 (June 12, 2014).

**List of Subjects**

**12 CFR Part 225**

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

**12 CFR Part 252**

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

**Authority and Issuance**

For the reasons stated in the Supplementary Information, the Board of Governors of the Federal Reserve System amends 12 CFR chapter II as follows:

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

1. The authority citation for part 225 is revised 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**

2. Section 225.8 is amended by:

a. Revising paragraphs (c)(3) and (d)(8) and (11);

b. Removing paragraphs (d)(12) and (13);

c. Redesignating paragraph (d)(14) as paragraph (d)(12);

d. Removing and reserving paragraph (e)(2)(i)(B); and

e. Revising paragraphs (e)(2)(ii)(A), (f)(1)(i)(C), (f)(2)(ii)(C), and (g)(1)(i).

The revisions read as follows:

**§ 225.8 Capital planning.**

* * * * *

(c) * * *

(3) Transition periods for bank holding companies subject to the supplementary leverage ratio. Notwithstanding paragraph (d)(8) of this section, only for purposes of the capital plan cycle beginning on January 1, 2016, a bank holding company shall not include an estimate of its supplementary leverage ratio.

(d) * * *

(8) Minimum regulatory capital ratio means any minimum regulatory capital ratio that the Federal Reserve may require of a bank holding company, by regulation or order, including the bank holding company's tier 1 and supplementary leverage ratios as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12, as applicable, and the bank holding company's common equity tier 1, tier 1, and total risk-based capital ratios as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12 and the transition provisions at 12 CFR 217.1(f)(4) and 217.300; except that the bank holding company shall not use the advanced approaches to calculate its regulatory capital ratios.

* * * * *

(11) Tier 1 capital has the same meaning as under 12 CFR part 217.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(B) [Reserved]

* * * * *

(ii) * * *

(A) A discussion of how the bank holding company will, under expected and stressful conditions, maintain capital commensurate with its risks, maintain capital above the minimum regulatory capital ratios, and serve as a source of strength to its subsidiary depository institutions;

* * * *

(f) * * *

(1) * * *

(i) * * *

(C) The bank holding company's ability to maintain capital above each minimum regulatory capital ratio on a pro forma basis under expected and stressful conditions throughout the planning horizon, including but not limited to any scenarios required under paragraphs (e)(2)(i)(A) and (e)(2)(ii) of this section.

* * * * *

(2) * * *

(ii) * * *

(C) The bank holding company has not demonstrated an ability to maintain capital above each minimum regulatory capital ratio on a pro forma basis under expected and stressful conditions throughout the planning horizon; or

* * * * *

(g) * * *

(1) * * *

(i) After giving effect to the capital distribution, the bank holding company would not meet a minimum regulatory capital ratio;

* * * * *

**PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)**

3. The authority citation for part 252 continues to read as follows:

**Authority:** 12 U.S.C. 321-338a, 1467a(g), 1818, 1831p-1, 1844(b), 1844(c), 5361, 5365, 5366.

4. Section 252.12 is amended by revising paragraph (n) to read as follows:

**§ 252.12 Definitions.**

* * * * *

(n) Regulatory capital ratio means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including a company's tier 1 and supplementary leverage ratio as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12, as applicable, and the company's common equity tier 1, tier 1, and total risk-based capital ratios as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12 and the transition provisions at 12 CFR 217.1(f)(4) and 217.300; except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

* * * * *

5. Section 252.13 is amended by revising paragraphs (b)(2) and (3) to read as follows:

**§ 252.13 Applicability.**

*  *  *  *  *

(b)  *  *  *

(2) Transition period for savings and loan holding companies. (i) A savings and loan holding company that is subject to minimum regulatory capital requirements and exceeds the asset threshold for the first time on or before March 31 of a given year, must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing;

(ii) A savings and loan holding company that is subject to minimum regulatory capital requirements and exceeds the asset threshold for the first time after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing; and

(iii) Notwithstanding paragraph (b)(2)(i) of this section, a savings and loan holding company that is subject to minimum regulatory capital requirements and exceeded the asset threshold for the first time on or before March 31, 2015, must comply with the requirements of this subpart beginning on January 1, 2017, unless that time is extended by the Board in writing.

(3) Transition periods for companies subject to the supplementary leverage ratio. Notwithstanding § 252.12(n), for purposes of the stress test cycle beginning on January 1, 2016, a company shall not include an estimate of its supplementary leverage ratio.

6. Section 252.15 is amended by revising paragraph (b)(2) to read as follows:

**§ 252.15 Methodologies and practices.**

*  *  *  *  *

(b) * * *

(2) For each of the second through ninth quarters of the planning horizon, the bank holding company or savings and loan holding company must:

(i) Assume no redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio;

(ii) Assume no issuances of common stock or preferred stock, except for issuances related to expensed employee compensation or in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the company's pro forma balance sheet estimates; and

(iii) Make reasonable assumptions regarding payments of dividends consistent with internal capital needs and projections.

* * * * *

7. Section 252.42 is amended by:

a. Revising paragraph (m); and

b. Removing paragraph (r).

The revision reads as follows:

**§ 252.42 Definitions.**

* * * * *

(m) Regulatory capital ratio means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including the company's tier 1 and supplementary leverage ratios as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12, as applicable, and the company's common equity tier 1, tier 1,

and total risk-based capital ratios as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12 and the transition provisions at 12 CFR 217.1(f)(4) and 217.300; except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

* * * * *

8. Section 252.43 is amended by revising paragraph (c) to read as follows:

**§ 252.43 Applicability.**

* * * * *

(c) Transition periods for covered companies subject to the supplementary leverage ratio. Notwithstanding § 252.42(m), only for purposes of the stress test cycle beginning on January 1, 2016, the Board will not include an estimate of a covered company's supplementary leverage ratio.

9. Section 252.44 is amended by revising paragraph (a)(2) to read as follows:

**§ 252.44 Annual analysis conducted by the Board.**

(a) * * *

(2) The analysis will include an assessment of the projected losses, net income, and pro forma capital levels and regulatory capital ratios and other capital ratios for the covered company and use such analytical techniques that the Board determines are appropriate to identify, measure, and monitor risks of the covered company that may affect the financial stability of the United States.

* * * * *

10. Section 252.45 is amended by revising paragraph (b)(2) to read as follows:

**§ 252.45 Data and information required to be submitted in support of the Board's analyses.**

* * * * *

(b) * * *

(2) Project a company's pre-provision net revenue, losses, provision for loan and lease losses, and net income; and pro forma capital levels, regulatory capital ratios, and any other capital ratio specified by the Board under the scenarios described in § 252.44(b).

* * * * *

11. Section 252.52 is amended by:

a. Revising paragraph (n); and

b. removing paragraph (t).

The revision reads as follows:

**§ 252.52 Definitions.**

* * * * *

(n) Regulatory capital ratio means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including the company's tier 1 and supplementary leverage ratios as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12, as applicable, and the company's common equity tier 1, tier 1, and total risk-based capital ratios as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12 and the transition provisions at 12 CFR 217.1(f)(4) and 217.300;

except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

*  *  *  *  *

12. Section 252.53 is amended by revising paragraph (b)(3) to read as follows:

**§ 252.53 Applicability.**

*  *  *  *  *

(b)  *  *  *

(3) Transition periods for covered companies subject to the supplementary leverage ratio. Notwithstanding § 252.52(n), only for purposes of the stress test cycle beginning on January 1, 2016, a bank holding company shall not include an estimate of its supplementary leverage ratio.

13. Section 252.56 is amended by revising paragraphs (a)(2), (b)(2)(i), and (b)(2)(iv) to read as follows:

**§ 252.56 Methodologies and practices.**

(a)  *  *  *

(2) The potential impact on pro forma regulatory capital levels and pro forma capital ratios (including regulatory capital ratios and any other capital ratios specified by the Board), incorporating the effects of any capital actions over the planning horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b)  *  *  *

(2)  *  *  *

(i) Common stock dividends equal to the quarterly average dollar amount of common stock dividends that the company paid in the previous year (that is, the first quarter of the planning horizon and the preceding three calendar quarters) plus common stock dividends attributable to issuances related to expensed employee compensation or in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the covered company's pro forma balance sheet estimates;

* * * * *

(iv) An assumption of no issuances of common stock or preferred stock, except for issuances related to expensed employee compensation or in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the covered company's pro forma balance sheet estimates.

* * * * *

14. Section 252.58 is amended by revising paragraphs (b)(3)(v), (b)(4), and (c)(2) to read as follows:

**§ 252.58 Disclosure of stress test results.**

* * * * *

(b) * * *

(3) * * *

(v) Pro forma regulatory capital ratios and any other capital ratios specified by the Board;

(4) An explanation of the most significant causes for the changes in regulatory capital ratios; and

* * * * *

(c) * * *

(2) The disclosure of pro forma regulatory capital ratios and any other capital ratios specified by the Board that is required under paragraph (b) of this section must include the beginning value, ending value, and minimum value of each ratio over the planning horizon.

**By order of the Board of Governors of the Federal Reserve System, November 25, 2015.**

**Robert deV. Frierson,**
**Secretary of the Board.**

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