



DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
12 CFR Part 50
[Docket ID OCC-2018-0013]
RIN 1557-AE36

FEDERAL RESERVE SYSTEM
12 CFR Part 249
[Docket No. R-1616]
RIN 7100-AF10

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Part 329
RIN 3064-AE77

Liquidity Coverage Ratio Rule: Treatment of Certain Municipal Obligations as High-Quality Liquid Assets

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

ACTION: Final rule.

SUMMARY: The OCC, the Board, and the FDIC (collectively, the agencies) are jointly adopting as a final rule, without change, the August 31, 2018, interim final rule, which amended the agencies' liquidity coverage ratio (LCR) rule to treat liquid and readily-marketable, investment grade municipal obligations as high-quality liquid assets. This treatment was mandated by section 403 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

DATES: The final rule is effective on [INSERT DATE 30 DAYS AFTER OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

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Corporation, 550 17th Street, NW., Washington, DC 20429. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (800) 925-4618.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) adopted the liquidity coverage ratio (LCR) rule¹ in 2014. The LCR rule established a quantitative liquidity requirement that is designed to promote the short-term resilience of the liquidity risk profile of large and internationally active banking organizations. The intent of the agencies in issuing the LCR rule was to improve the U.S. banking sector's ability to absorb shocks arising from financial and economic stress and the measurement and management of liquidity risk.² The LCR rule generally applies to a bank holding company, savings and loan holding company, or depository institution if: (1) it has total consolidated assets equal to \$250 billion or more; (2) it has total consolidated on-balance sheet foreign exposure equal to \$10 billion or more; or (3) it is a depository institution with total consolidated assets equal to \$10 billion or more and is a consolidated subsidiary of a firm that is subject to the LCR

¹ 79 FR 61440 (Oct. 10, 2014), codified at 12 CFR part 50 (OCC), 12 CFR part 249 (Board), and 12 CFR part 329 (FDIC).

² Id.

rule (each, a covered company).³ Covered companies generally must maintain an amount of high-quality liquid assets (HQLA) equal to or greater than their projected total net cash outflows over a prospective 30 calendar-day period. The LCR rule defines three categories of HQLA—level 1, level 2A, and level 2B liquid assets—and sets forth qualifying criteria for HQLA and limitations for an asset’s inclusion in a banking organization’s HQLA amount.

In 2016, the Board amended its LCR rule to include certain U.S. municipal securities as HQLA, subject to certain limitations (2016 Amendments).⁴ The 2016 Amendments permitted U.S. municipal securities to qualify as level 2B liquid assets if they were: (1) general obligation securities of public sector entities (that is, a state, local authority, or other governmental subdivision below the U.S. sovereign entity level);⁵ (2) investment grade under 12 CFR part 1 as of the calculation date; (3) issued or guaranteed by a public sector entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions; and (4) not be an obligation of a financial sector entity or a financial sector

³ See section 1 of the LCR rule. On December 21, 2018, the agencies invited comment on a proposed rule that would revise the framework for determining the applicability of the standardized liquidity requirements, including the LCR rule, for U.S. banking organizations. See Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements, 83 FR 66024 (Dec. 21, 2018). On May 24, 2019, the agencies published for comment a proposed rule to apply standardized liquidity requirements to foreign banking organizations with respect to their combined U.S. operations. See Proposed Changes to Applicability Thresholds for Regulatory Capital Requirements for Certain U.S. Subsidiaries of Foreign Banking Organizations and Application of Liquidity Requirements for Foreign Banking Organizations, Certain U.S. Depository Institution Holding Companies, and Certain Depository Institution Subsidiaries, 84 FR 24296 (May 24, 2019). These proposed rulemakings, if adopted, would revise the scope of application of the LCR rule.

⁴ 81 FR 21223 (Apr. 11, 2016).

⁵ The 2016 Amendments defined a general obligation as a bond or similar obligation that is backed by the full faith and credit of a public sector entity. 12 CFR 249.20(c)(2).

entity's consolidated subsidiary (unless only guaranteed by a financial sector entity or its consolidated subsidiary and otherwise eligible). The 2016 Amendments limited the inclusion of general obligation securities in the HQLA amount to 5 percent of the covered company's total HQLA amount. The 2016 Amendments also limited the inclusion of general obligation securities of any single public sector entity to two times the average daily trading volume during the previous four quarters of all general obligation securities issued by that public sector entity.

The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) was enacted on May 24, 2018.⁶ Section 403 of the EGRRCPA amended section 18 of the Federal Deposit Insurance Act⁷ and requires the agencies—for purposes of the LCR rule and any other regulation that incorporates a definition of the term “high-quality liquid asset” or another substantially similar term—to treat a municipal obligation as HQLA that is a level 2B liquid asset if that obligation is, as of the calculation date, liquid and readily-marketable and investment grade. Section 403 defines “municipal obligation” as an obligation of a State or any political subdivision thereof; or any agency or instrumentality of a State or any political subdivision thereof. Section 403 defines “liquid and readily-marketable” as having the meaning given the term in 12 CFR 249.3 or any successor thereto. Section 403 defines “investment grade” as having the meaning given the term in 12 CFR 1.2 or any successor thereto.

II. Interim Final Rule

⁶ Pub. L. 115-174, 132 Stat. 1296-1368 (2018).

⁷ 12 U.S.C. 1828(aa).

On August 31, 2018, the agencies published an interim final rule amending the agencies' LCR rule to implement section 403 of the EGRRCPA and soliciting public comment.⁸

The interim final rule added a definition to the agencies' rule for the term "municipal obligations," which, consistent with the EGRRCPA, means an obligation of (1) a state or any political subdivision thereof or (2) any agency or instrumentality of a state or any political subdivision thereof. In addition, the interim final rule amended the HQLA criteria with respect to level 2B liquid assets by adding municipal obligations that, as of the LCR calculation date, are both liquid and readily-marketable and investment grade (under 12 CFR part 1)⁹ to the list of assets that are eligible for treatment as level 2B liquid assets.¹⁰

Consistent with section 403 of the EGRRCPA, the interim final rule also amended the definition of "liquid and readily-marketable" in the FDIC's and OCC's rules so that the term has the same meaning given to it under 12 CFR 249.3 of the Board's rule.¹¹

The interim final rule also rescinded the Board's 2016 Amendments so that municipal obligations under the Board's rule are treated consistently with section 403 of the EGRRCPA.

III. Comments Received

⁸ 83 FR 44451 (Aug. 31, 2018).

⁹ The OCC's definition of "investment grade" under 12 CFR 1.2 provides that "[i]nvestment grade means the issuer of a security has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected." 12 CFR 1.2.

¹⁰ 12 CFR 50.20 (OCC); 12 CFR 249.20 (Board); 12 CFR 329.20 (FDIC).

¹¹ Under the Board's rule, a liquid and readily-marketable security is a security that is traded in an active secondary market with: (1) more than two committed market makers; (2) a large number of non-market maker participants on both the buying and selling sides of transactions; (3) timely and observable market prices; and (4) a high trading volume. 12 CFR 249.3.

The agencies received nine comment letters addressing the interim final rule, including letters from trade associations, private sector enterprises, and one individual. Commenters generally expressed support for the inclusion of certain municipal obligations as HQLA and the agencies' implementation of section 403 of the EGRRCPA through the interim final rule. Many commenters asserted that municipal obligations were a suitable asset class for HQLA eligibility, with qualities consistent with other level 2B liquid assets, and that the interim final rule effectively satisfied the underlying intent of section 403 of the EGRRCPA. Some commenters suggested additional changes to the LCR rule for the agencies' consideration, including changes that were not addressed or affected by section 403 of the EGRRCPA.

Comments Regarding Eligibility and Treatment of Municipal Obligations as HQLA

Some commenters requested that the agencies treat municipal obligations in the same manner as other asset types includable as HQLA, without imposing additional limitations, such as those in the Board's 2016 Amendments.¹²

Other commenters argued that municipal obligations should not be subject to certain requirements and limitations applicable to HQLA, such as the haircuts and composition limits generally applicable to level 2B liquid assets.¹³ Alternatively, commenters argued that these requirements should be liberalized with respect to municipal obligations. Another commenter

¹² For example, the 2016 Amendments limited the inclusion of municipal obligations in a Board-supervised institution's HQLA amount to 5 percent of the institution's total HQLA amount and limited the inclusion as eligible HQLA of municipal obligations of any single issuer to two times the average daily trading volume of all general obligation securities of the issuer over the previous four quarters.

¹³ See 12 CFR 50.21 (OCC), 12 CFR 249.21 (Board), and 12 CFR 329.21 (FDIC).

recommended that the definition of liquid and readily-marketable should be revised, because it would exclude from HQLA certain municipal obligation securities with a liquidity risk profile similar to other assets that currently qualify as level 2B liquid assets.

Section 403 requires the agencies to treat a municipal obligation as a level 2B liquid asset if the obligation, as of the calculation date, is liquid and readily-marketable and investment grade. The interim final rule implemented section 403, imposing only those restrictions on municipal obligations that also apply to other level 2B liquid assets.¹⁴ In addition, the interim final rule defined “liquid and readily-marketable” as having the meaning given the term in 12 CFR 249.3, as specifically mandated by section 403. Accordingly, the agencies believe that it would not be appropriate to make changes to the restrictions applicable to municipal obligations as level 2B liquid assets or the definition of “liquid and readily-marketable” in this final rule.

Comments Regarding Broader Changes to the LCR Rule

Several commenters, while supportive of the interim final rule, requested broad changes to the LCR rule beyond the treatment of municipal obligations as HQLA. For example, certain commenters argued that the agencies should tailor the application of the LCR rule based on the risk profile, operations, and complexity of the banking organization. These commenters argued that the current applicability thresholds are outdated and overly reliant on fixed asset thresholds. These commenters also urged the agencies to eliminate the \$10 billion foreign exposure

¹⁴ As part of the interim final rule, the Board rescinded the 2016 Amendments.

threshold as an interim measure.

One commenter recommended that the agencies revise the scope of assets recognized as HQLA. The commenter also requested that the agencies review the LCR rule's inflow and outflow assumptions, including its stability assumptions. This commenter also recommended revising the LCR rule to better reflect market realities, including by revising maturity assumptions, the treatment of retail trusts, and the definition of operational deposits. This commenter also recommended that the agencies either "remove or increase the lag time" associated with LCR disclosures.

The agencies are not adopting these broader proposed changes in this final rule.¹⁵ The interim final rule was issued to implement section 403 of the EGRRCPA, and broader revisions to the LCR rule fall outside of the scope of the changes that the agencies sought comment on in the interim final rule.

IV. Description of the Final Rule

For the reasons described above, the agencies are adopting the interim final rule as final without change.

The interim final rule's changes to the LCR rule provided covered companies greater flexibility in meeting the LCR rule's minimum requirements by expanding the types of assets that are eligible as HQLA. For FDIC- and OCC-regulated institutions, the interim final rule's

¹⁵ The agencies have proposed revisions to the LCR rule in separate rulemakings that would address certain comments regarding the scope and applicability thresholds. See supra n. 3.

changes marked the first time that such institution could treat any municipal obligations as HQLA. For Board-regulated institutions, those changes broadened the types of municipal obligations that could be included as HQLA. In particular, because the Board rescinded the 2016 Amendments as part of the interim final rule, municipal obligations were no longer required to be general obligation securities and, as a result, many issuances of revenue bonds could qualify as municipal obligations. In adopting the interim final rule as final without change, the final rule does not impact the changes described above.

This final rule does not otherwise affect which assets can count as HQLA under the LCR rule.

V. Regulatory Analysis

A. Administrative Procedure Act and Effective Date

The Administrative Procedure Act (APA) generally requires that a final rule be published in the Federal Register no less than 30 days before its effective date.¹⁶ Therefore, the final rule will become effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The interim final rule will remain in effect until the final rule becomes effective.

B. Riegle Community Development and Regulatory Improvement Act

¹⁶ 5 U.S.C. 553(d).

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),¹⁷ in determining the effective date and administrative compliance requirements for a new regulation that imposes additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each federal banking agency must consider any administrative burdens that such regulation would place on depository institutions and the benefits of such regulation. In addition, section 302(b) of the RCDRIA¹⁸ requires such new regulation 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, with certain exceptions, including for good cause. The RCDRIA does not apply to the final rule because the rule does not impose any additional reporting, disclosures, or other new requirements on IDIs.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking when a general notice of proposed rulemaking is not required.¹⁹ Because the agencies previously determined that it was unnecessary to publish a general notice of proposed rulemaking for the interim final rule, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply to this final rule. Nonetheless, the agencies believe that, because size thresholds for covered companies under the final rule exceed the size limits of "small entities" as defined in section

¹⁷ 12 U.S.C. 4802(a).

¹⁸ 12 U.S.C. 4802(b).

¹⁹ 5 U.S.C. 603, 604.

601(6) of the RFA, small entities are not affected by the final rule.²⁰ Thus, the final rule does not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995²¹ states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies have determined that this final rule does not create any new, or revise any existing, collections of information pursuant to the Paperwork Reduction Act and, therefore, no information collection request submission needs to be made to the OMB.

E. Use of Plain Language

Section 722 of the Gramm-Leach Bliley Act²² requires the agencies to use plain language in all proposed and final rules published after January 1, 2000. Having received no comments with respect to making the interim final rule easier to understand, the agencies are adopting the final rule without change.

F. Unfunded Mandates Reform Act of 1995

²⁰ 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 \$550 million or less and trust companies with total assets of \$38.5 million or less.

²¹ 44 U.S.C. 3501-3521.

²² Pub. L. 106-102, section 722, 113 Stat. 1338, 1471 (1999)

Consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act),²³ the OCC prepares an impact statement before promulgating any final rule for which a general notice of proposed rulemaking was published. Because the OCC did not publish a general notice of proposed rulemaking for the reasons described above in paragraph A of this section, the OCC has not prepared an impact statement for the final rule under the Unfunded Mandates Act.

List of Subjects

12 CFR Part 50

Administrative practice and procedure, Banks, banking, Liquidity, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 249

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Liquidity, Reporting and recordkeeping requirements.

12 CFR Part 329

Administrative practice and procedure, Banks, banking, Federal Deposit Insurance Corporation, Reporting and recordkeeping requirements.

DEPARTMENT OF THE TREASURY

²³ 2 U.S.C. 1532.

Office of the Comptroller of the Currency

12 CFR Chapter I

PART 50 – LIQUIDITY RISK MEASUREMENT STANDARDS

- The interim final rule amending 12 CFR part 50 of chapter I, title 12 of the Code of Federal Regulations, which was published at 83 FR 44451 on August 31, 2018, is adopted as a final rule without change.

Federal Reserve System

12 CFR Chapter II

PART 249 – LIQUIDITY RISK MEASUREMENT STANDARDS (REGULATION WW)

- The interim final rule amending 12 CFR part 249 of chapter II, title 12 of the Code of Federal Regulations, which was published at 83 FR 44451 on August 31, 2018, is adopted as a final rule without change.

Federal Deposit Insurance Corporation

12 CFR Chapter III

PART 329 – LIQUIDITY RISK STANDARDS

- The interim final rule amending 12 CFR part 329 of chapter III, title 12 of the Code of Federal Regulations, which was published at 83 FR 44451 on August 31, 2018, is adopted as a final rule without change.

Dated: May 20, 2019

Joseph M. Otting,
Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, May 28, 2019.

Ann E. Misback,
Secretary of the Board.

Federal Deposit Insurance Corporation.
By order of the Board of Directors.
Dated at Washington, DC, on May 28, 2019.

Valerie J. Best,
Assistant Executive Secretary.

BILLING CODES: 4810-33-P; 6210-01-P; 6714-01-P

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