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DEPARTMENT OF TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket ID OCC-2020-0017]

RIN 1557-AE89

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R-1711]

RIN 7100-AF85

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064-AF47

Regulatory Capital Rule: Transition for the Community Bank Leverage Ratio Framework

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

ACTION: Interim final rule; request for comment.

SUMMARY: This interim final rule provides a graduated transition to a community bank leverage ratio requirement of 9 percent from the temporary 8-percent community bank leverage ratio requirement (transition interim final rule). When the requirements in the transition interim final rule become applicable, the community bank leverage ratio will be 8 percent beginning in the second quarter of calendar year 2020, 8.5 percent through calendar year 2021, and 9 percent thereafter. The transition interim final rule also maintains a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls no more than 1 percentage point below the applicable community bank leverage ratio requirement. The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (together, the agencies) issued concurrently an interim final rule that established an 8-percent community bank leverage ratio, as mandated under the

Coronavirus Aid, Relief, and Economic Security Act. The agencies are issuing the transition interim final rule to provide community banking organizations with sufficient time and clarity to meet the 9 percent leverage ratio requirement under the community bank leverage ratio framework while they also focus on supporting lending to creditworthy households and businesses given the recent strains on the U.S. economy caused by the coronavirus disease emergency.

DATES: The interim final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments on the interim final rule must be received no later than [45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties are encouraged to submit written comments jointly to all of the agencies. Commenters are encouraged to use the title “Regulatory Capital Rule: Transition for the Community Bank Leverage Ratio Framework” to facilitate the organization and distribution of comments among the agencies. Commenters are also encouraged to identify the number of the specific question for comment to which they are responding. 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 or e-mail, if possible. Please use the title “Regulatory Capital Rule: Transition for the Community Bank Leverage Ratio Framework” 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-2020-0017” 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-2020-0017” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking 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 regulations@erulemakinghelpdesk.com.

- **E-mail:** regs.comments@occ.treas.gov.
- **Mail:** Chief Counsel’s Office, Office of the Comptroller of the Currency, 400 7th Street, SW, suite 3E-218, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and “Docket ID OCC-2020-0017” 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 that you provide 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 any of the following methods:

- **Viewing Comments Electronically** – Regulations.gov Classic or Regulations.gov

Beta:

Regulations.gov Classic: Go to <https://www.regulations.gov/>. Enter “Docket ID OCC-2020-0017” 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-2020-0017” 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-1711 and RIN 7100-AF85, 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 and RIN numbers 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 will be made available on 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 personally identifiable information at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684.

FDIC: You may submit comments, identified by RIN 3064-AF47, by any of the following methods:

- **Agency Website:** <http://www.FDIC.gov/regulations/laws/Federal/>. Follow the instructions for submitting comments on the Agency website.
- **Email:** comments@fdic.gov. Include the RIN 3064-AF47 in the subject line of the message.

- **Mail:** Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS,
Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.
- **Hand Delivery/Courier:** Comments may be hand-delivered to the guard station at the rear of the 550 17th Street, NW, Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Instructions: Comments submitted must include “FDIC” and “RIN 3064-AF47.”

Comments received will be posted without change to <http://www.FDIC.gov/regulations/laws/Federal/>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

OCC: Margot Schwadron, Director, or Benjamin Pegg, Risk Expert, Capital and Regulatory Policy, (202) 649–6370; Carl Kaminski, Special Counsel, or Daniel Perez, Senior Attorney, Chief Counsel’s Office, (202) 649–5490, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Constance M. Horsley, Deputy Associate Director, (202) 452-5239; Elizabeth MacDonald, Manager, (202) 872-7526; Christopher Appel, Senior Financial Institution Policy Analyst II, (202) 973-6862; or Brendan Rowan, Senior Financial Institution Policy Analyst I, (202) 475-6685, Division of Supervision and Regulation; or Benjamin W. McDonough, Assistant General Counsel, (202) 452-2036; Mark Buresh, Senior Counsel, (202) 452-2877; Andrew Hartlage, Counsel, (202) 452-6483; or Jonah Kind, Senior Attorney, (202) 452-2045, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. Users of Telecommunication Device for the Deaf (TDD) only, call (202) 263-4869.

FDIC: Bobby R. Bean, Associate Director, bbean@fdic.gov; Benedetto Bosco, Chief, Capital Policy Section, bbosco@fdic.gov; Noah Cuttler, Senior Policy Analyst, ncuttler@fdic.gov; regulatorycapital@fdic.gov; Capital Markets Branch, Division of Risk Management Supervision, (202) 898-6888; or Michael Phillips, Counsel, mphilips@fdic.gov; Catherine Wood, Counsel, cawood@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 on the Community Bank Leverage Ratio Framework

The community bank leverage ratio framework provides a simple measure of capital

adequacy for community banking organizations that meet certain qualifying criteria. The community bank leverage ratio framework implements section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which requires 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) to establish a community bank leverage ratio of not less than 8 percent and not more than 10 percent for a qualifying community banking organization.¹ Under section 201(c) of EGRRCPA, a qualifying community banking organization whose leverage ratio exceeds the community bank leverage ratio, as established by the agencies, shall be considered to have met the generally applicable risk-based and leverage capital requirements in the capital rule (generally applicable rule), any other applicable capital or leverage requirements, and, if applicable, the “well capitalized” ratio requirements for purposes of section 38 of the Federal Deposit Insurance Act. Section 201(b) of EGRRCPA also requires the agencies to establish procedures for the treatment of a qualifying community banking organization whose leverage ratio falls below the community bank leverage ratio requirement as established by the agencies.

In 2019, the agencies issued a final rule establishing the community bank leverage ratio framework, which became effective January 1, 2020 (2019 final rule).² Under the 2019 final

¹ Public Law 115-174, 132 Stat. 1296, 1306–07 (2018) (codified at 12 U.S.C. 5371 note). The authorizing statutes use the term “qualifying community bank,” whereas the regulation implementing the statutes uses the term “qualifying community banking organization.” The terms generally have the same meaning. Section 201(a)(3) of EGRRCPA provides that a qualifying community banking organization is a depository institution or depository institution holding company with total consolidated assets of less than \$10 billion that satisfies such other factors, based on the banking organization’s risk profile, that the agencies determine are appropriate. This determination shall be based on consideration of off-balance sheet exposures, trading assets and liabilities, total notional derivatives exposures, and any such factors that the agencies determine appropriate.

² 84 FR 61776 (November 13, 2019).

rule, the agencies established a community bank leverage ratio of 9 percent using the existing leverage ratio. A qualifying community banking organization that maintains a leverage ratio of greater than 9 percent and elects to use the community bank leverage ratio framework will be considered to have satisfied the generally applicable rule and any other applicable capital or leverage requirements, and, if applicable, will be considered to be well capitalized.³

Under the 2019 final rule, a qualifying community banking organization is any depository institution or depository institution holding company that has less than \$10 billion in total consolidated assets, off-balance sheet exposures (excluding derivatives other than sold credit derivatives and unconditionally cancelable commitments) of 25 percent or less of total consolidated assets, and trading assets and liabilities of 5 percent or less of total consolidated assets. The banking organization also cannot be an advanced approaches banking organization.⁴

In addition, the 2019 final rule established a two-quarter grace period during which a qualifying community banking organization that temporarily fails to meet any of the qualifying criteria, including the greater-than-9-percent leverage ratio requirement, generally would still be considered well capitalized so long as the banking organization maintains a leverage ratio of greater than 8 percent. A banking organization that either fails to meet all the qualifying criteria

³ Under existing PCA requirements applicable to insured depository institutions, to be considered “well capitalized” a banking organization must demonstrate that it is not subject to any written agreement, order, capital directive, or as applicable, prompt corrective action directive, to meet and maintain a specific capital level for any capital measure. See 12 CFR 6.4(b)(1)(iv) (OCC); 12 CFR 208.43(b)(1)(v) (Board); 12 CFR 324.403(b)(1)(v) (FDIC). The same legal requirements continue to apply under the community bank leverage ratio framework.

⁴ A banking organization is an advanced approaches banking organization if it (1) is a global systemically important bank holding company, (2) is a Category II banking organization, (3) has elected to be an advanced approached banking organization, (4) is a subsidiary of a company that is an advanced approaches banking organization, or (5) has a subsidiary depository institution that is an advanced approaches banking organization. See 12 CFR 3.100 (OCC); 12 CFR 217.100 (Board); 12 CFR 324.100 (FDIC).

within the grace period or fails to maintain a leverage ratio of greater than 8 percent is required to comply with the generally applicable rule and file the appropriate regulatory reports.

II. Statutory Interim Final Rule

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law.⁵ Section 4012 of the CARES Act directs the agencies to issue an interim final rule that provides that, for purposes of section 201 of EGRRCPA, the community bank leverage ratio shall be 8 percent and that a qualifying community banking organization whose leverage ratio falls below the community bank leverage ratio requirement established under the CARES Act shall have a reasonable grace period to satisfy that requirement. The interim final rule required under section 4012 of the CARES Act is effective during the period beginning on the date on which the agencies issue the interim final rule and ending on the sooner of the termination date of the national emergency concerning the coronavirus disease (COVID–19) outbreak declared by the President on March 13, 2020, under the National Emergencies Act, or December 31, 2020 (termination date).

Accordingly, the agencies issued concurrently an interim final rule that implements a temporary 8-percent community bank leverage ratio requirement, as mandated under section 4012 of the CARES Act (statutory interim final rule). The statutory interim final rule also establishes a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls below the 8-percent community bank leverage ratio requirement. The provisions in this transition interim final rule will become effective upon the termination date of the statutory interim final rule.

III. Transition Interim Final Rule

⁵ Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, 134 Stat. 281.

Pursuant to section 201(b) of EGRRCPA, this interim final rule (transition interim final rule) provides a graduated transition from the temporary 8-percent community bank leverage ratio requirement, as mandated under the CARES Act, to the 9-percent community bank leverage ratio requirement as established under the 2019 final rule. Specifically, the transition interim final rule provides that the community bank leverage ratio will be 8 percent in the second quarter through fourth quarter of calendar year 2020, 8.5 percent in calendar year 2021, and 9 percent thereafter. The transition interim final rule also modifies the two-quarter grace period for a qualifying community banking organization to take into account the graduated increase in the community bank leverage ratio requirement. The transition interim final rule does not make any changes to the other qualifying criteria in the community bank leverage ratio framework.

The transition interim final rule extends the 8-percent community bank leverage ratio requirement through December 31, 2020, in the event the statutory interim final rule terminates before December 31, 2020. Thus, even if the statutory interim final rule terminates prior to December 31, 2020, the community bank leverage ratio will continue to be set at 8 percent for the remainder of 2020. Section 201 of EGRRCPA requires a qualifying community banking organization exceed the community bank leverage ratio established by the agencies in order to be considered to have met the generally applicable rule, any other applicable capital or leverage requirements, and, if applicable, the “well capitalized” capital ratio requirements, whereas section 4012 of the CARES Act requires that a qualifying community banking organization meet or exceed an 8 percent community bank leverage ratio to be considered the same.

In the 2019 final rule, the agencies previously adopted a 9-percent community bank leverage ratio requirement on the basis that this threshold, with complementary qualifying criteria, generally maintains the current level of regulatory capital held by qualifying banking

organizations and supports the agencies' goals of reducing regulatory burden while maintaining safety and soundness. The agencies intend for the graduated approach under this transition interim final rule to provide community banking organizations with sufficient time to meet a 9-percent community bank leverage ratio requirement while they also focus on supporting lending to creditworthy households and businesses. This latter goal is particularly critical given the recent strains on the U.S. economy caused by COVID-19.

The graduated approach also provides clarity to a qualifying community banking organization that is planning to elect to use the community bank leverage ratio framework because, under section 4012 of the CARES Act, the statutory interim final rule could cease to be effective at any time before December 31, 2020. The transition interim final rule is consistent with the agencies' authority under section 201 of EGRRCPA (which mandates a community bank leverage ratio of not less than 8 percent and not more than 10 percent).

Based on reported data as of December 31, 2019, there are 5,258 banking organizations with less than \$10 billion in total consolidated assets. The agencies estimate that approximately 95 percent of these banking organizations would qualify to use the community bank leverage ratio framework under the 8 percent calibration and other qualifying criteria. The agencies estimate that approximately 91 percent of such banking organizations would qualify to use the community bank leverage ratio framework under the 8.5 percent calibration and other qualifying criteria.

Consistent with section 201(c) of EGRRCPA, under the transition interim final rule, a qualifying community banking organization that temporarily fails to meet any of the qualifying criteria, including the applicable community bank leverage ratio requirement, generally would still be deemed well capitalized during a two-quarter grace period so long as the banking

organization maintains a leverage ratio of the following: greater than 7 percent in the second quarter through fourth quarter of calendar year 2020, greater than 7.5 percent in calendar year 2021, and greater than 8 percent thereafter.⁶ A banking organization that fails to meet the qualifying criteria after the end of the grace period or reports a leverage ratio of equal to or less than 7 percent in the second through fourth quarters of calendar year 2020, equal to or less than 7.5 percent in calendar year 2021, or equal to or less than 8 percent thereafter, will be required to comply immediately with the generally applicable rule and file the appropriate regulatory reports.⁷

The agencies adopted in the 2019 final rule a two-quarter grace period with a leverage ratio requirement that is 1 percentage point below the community bank leverage ratio on the basis that these requirements appropriately mitigate potential volatility in capital and associated regulatory reporting requirements based on temporary changes in a banking organization's risk profile from quarter to quarter, while capturing more permanent changes in a banking organization's risk profile. The agencies continue to believe that this approach is appropriate and provides a qualifying community banking organization whose leverage ratio falls below the applicable community bank leverage ratio requirement a reasonable amount of time to once again satisfy that requirement. This approach is consistent with section 201(b)(2) of EGRRCPA,

⁶ While the statutory interim final rule is in effect, a qualifying community banking organization that temporarily fails to meet any of the qualifying criteria, including the applicable community bank leverage ratio requirement, generally would still be deemed well capitalized so long as the banking organization maintains a leverage ratio of 7 percent or greater during a two-quarter grace period. Similarly, while the statutory interim final rule is in effect, a banking organization that fails to meet the qualifying criteria after the end of the grace period or reports a leverage ratio of less than 7 percent must comply with the generally applicable rule and file the appropriate regulatory reports.

⁷ In addition, consistent with the 2019 final rule, a banking organization that ceases to satisfy the qualifying criteria as a result of a business combination also will receive no grace period and will be required to comply with the generally applicable rule.

which directs the agencies to establish procedures for the treatment of a qualifying community bank whose leverage ratio falls below the community bank leverage ratio requirement as established by the agencies.

Table 1: Schedule of Community Bank Leverage Ratio Requirements

Calendar Year	Community Bank Leverage Ratio	Leverage Ratio under the Applicable Grace Period
2020	8 percent	7 percent
2021	8.5 percent	7.5 percent
2022	9 percent	8 percent

The agencies are maintaining the 2019 final rule’s requirement that the grace period will begin as of the end of the calendar quarter in which the electing banking organization ceases to satisfy any of the qualifying criteria (so long as the banking organization maintains a leverage ratio of greater than the requirement for the applicable period) and will end after two consecutive calendar quarters. For example, if the electing banking organization, which had met all qualifying criteria as of March 31, 2020, no longer meets one of the qualifying criteria as of May 15, 2020, and still does not meet the criteria as of the end of that quarter, the grace period for such a banking organization will begin as of the end of the quarter ending June 30, 2020. The banking organization may continue to use the community bank leverage ratio framework as of September 30, 2020, but will need to comply fully with the generally applicable rule (including the associated reporting requirements) as of December 31, 2020, unless the banking organization once again meets all qualifying criteria by that date.

If an electing banking organization is in the grace period when the required community bank leverage ratio increases, the banking organization would be subject, as of that change, to both the higher community bank leverage ratio requirement and higher grace period leverage

ratio requirement. For example, if the electing banking organization that had met all qualifying criteria as of September 30, 2020, has a 7.2 percent community bank leverage ratio (but meets all the other qualifying criteria) as of the end of December 31, 2020, the grace period for such a banking organization will begin as of the end of the fourth quarter. The banking organization may continue to use the community bank leverage ratio framework as of March 31, 2021, if the banking organization has a leverage ratio of greater than 7.5 percent, and will need to comply fully with the generally applicable rule (including the associated reporting requirements) as of June 30, 2021, unless the banking organization has a leverage ratio of greater than 8.5 percent (and meets all the other qualifying criteria) by that date. In this example, if the banking organization has a leverage ratio equal to or less than 7.5 percent as of March 31, 2021, it would not be eligible to use the community bank leverage ratio framework and would be subject immediately to the requirements of the generally applicable rule.

As mentioned above, the grace period for an electing community banking organization is limited to two consecutive calendar quarters. For example, if the electing banking organization that had met all qualifying criteria as of June 30, 2021, has an 8.3 percent community bank leverage ratio (but meets all the other qualifying criteria) as of the end of September 30, 2021, the grace period for such a banking organization will begin as of the end of the third quarter. The banking organization may continue to use the community bank leverage ratio framework as of December 31, 2021, if the banking organization has a leverage ratio of greater than 7.5 percent, and will need to comply fully with the generally applicable rule (including the associated reporting requirements) as of March 31, 2022, unless the banking organization has a leverage ratio of greater than 9.0 percent (and meets all the other qualifying criteria) by that date.

IV. Effective Date of the Transition Interim Final Rule

The transition interim final rule is effective immediately upon publication in the *Federal Register*. Banking organizations are subject to the requirements under the transition interim final rule for purposes of filing their Call Report or Form FR Y-9C, as applicable, beginning in the quarter in which the statutory interim final rule is no longer in effect. A banking organization's compliance with capital requirements for a quarter prior to the transition interim final rule's effective date shall be determined according to the generally applicable rule unless the banking organization has filed their Call Report Form or FR Y-9C, as applicable, for the prior quarter and has indicated that it has elected to use the community bank leverage ratio.

Question 1: The agencies invite comment on the proposed graduated increase under the transition interim final rule. What alternatives, if any, should the banking agencies consider to provide sufficient time for a banking organization to meet a 9-percent community bank leverage ratio requirement and why?

V. Administrative Law Matters

A. Administrative Procedure Act

The agencies are issuing this transition interim final rule without prior notice and the opportunity for public comment and the 30-day delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).⁸ 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.”⁹

⁸ 5 U.S.C. 553.

⁹ 5 U.S.C. 553(b)(B).

The agencies believe that the public interest is best served by implementing the transition interim final rule as soon as possible. As discussed above, section 4012 of the CARES Act directs the agencies to issue an interim final rule that provides that, for purposes of section 201 of EGRRCPA, the community bank leverage ratio shall be 8 percent and that a qualifying community banking organization whose leverage ratio falls below the community bank leverage ratio requirement established under the CARES Act shall have a reasonable grace period to satisfy that requirement. A qualifying community banking organization to which the grace period applies may continue to be treated as a qualifying community banking organization and shall be presumed to satisfy the capital and leverage requirements described in section 201(c) of EGRRCPA. The agencies are issuing this interim final rule immediately, and concurrently with the interim final rule mandated by section 4012 of the CARES Act, in order to provide community banking organizations with sufficient time to meet the leverage ratio requirement and to provide clarity to a qualifying community banking organization that is planning to elect to use the community bank leverage ratio framework, because, under section 4012 of the CARES Act, the statutory interim final rule could cease to be effective at any time before December 31, 2020.

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.¹⁰ Because the rules relieve a restriction, the transition interim final rule is exempt from the APA's delayed effective date requirement.¹¹ Additionally, the agencies find good cause to publish the transition 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.

¹⁰ 5 U.S.C. 553(d).

¹¹ 5 U.S.C. 553(d)(1).

While the agencies believe there is good cause to issue the transition interim final rule without advance notice and comment and with an immediate effective date as of the date of *Federal Register* publication, the agencies are interested in the views of the public and request comment on all aspects of the interim final rule.

B. Congressional Review Act

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a “major” rule.¹² If a rule is deemed a “major rule” by the Office of Management and Budget (OMB), the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.¹³

The Congressional Review Act defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.¹⁴

For the same reasons set forth above, the agencies are adopting the transition interim final rule without the delayed effective date generally prescribed under the Congressional Review Act. The delayed effective date required by the Congressional Review Act 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 notice and public procedure thereon are impracticable,

¹² 5 U.S.C. 801 et seq.

¹³ 5 U.S.C. 801(a)(3).

¹⁴ 5 U.S.C. 804(2).

unnecessary, or contrary to the public interest.¹⁵ In light of section 4012 of the CARES Act, and the reasons described above for immediately providing a transition period to the temporary change mandated by section 4012, the agencies believe that delaying the effective date of the transition interim final rule would be contrary to the public interest.

As required by the Congressional Review Act, the agencies will submit the transition interim 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 (44 U.S.C. 3501–3521) (PRA) 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 OMB control number. The transition interim final rule affects the agencies' current information collections for the Call Reports (OCC OMB Control No. 1557-0081; Board OMB Control No. 7100-0036; and FDIC OMB Control No. 3064-0052). The Board has reviewed the transition interim final rule pursuant to authority delegated by the OMB.

While the transition interim final rule contains no information collection requirements, the agencies have determined that there are changes that should be made to the Call Reports as a result of this rulemaking. Although there may be a substantive change resulting from changes to the community bank leverage ratio framework for purposes of the Call Reports, the change 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

¹⁵ 5 U.S.C. 808.

changes to the Call Reports and their related instructions will be addressed in a separate *Federal Register* notice.

In addition, the Board has temporarily revised the Financial Statements for Holding Companies (FR Y-9 reports; OMB No. 7100-0128) to accurately reflect aspects of the statutory interim final rule and the transition 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, publish a notice soliciting public comment. Therefore, the Board is inviting comment on a proposal to extend each of these information collections for three years, with the revisions discussed below.

The Board invites public comment on the following information collections, which are being reviewed under authority delegated by the OMB under the PRA. Comments must be submitted on or before [insert date 60 days after publication in the *Federal Register*]. Comments are invited on the following:

- a. Whether the collection of information is 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 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 collections 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.

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 proposal.

Final Approval under OMB Delegated Authority of the Temporary Revision of, and Solicitation of Comment to Extend for Three Years, With Revision, of the Following Information Collection:

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: June 30, 2020.

Frequency: Quarterly, semiannually, and annually.

Respondents: Bank holding companies, savings and loan holding companies,¹⁶ securities holding companies, and U.S. intermediate holding companies (collectively, HCs).

Estimated number of respondents: FR Y-9C (non-advanced approaches community bank leverage ratio (CBLR) HCs with less than \$5 billion in total assets): 71; FR Y-9C (non-advanced approaches CBLR HCs with \$5 billion or more in total assets): 35; FR Y-9C (non-advanced

¹⁶ An SLHC must file one or more of the FR Y-9 series of reports unless it is: (1) a grandfathered unitary SLHC with primarily commercial assets and thrifts that make up less than 5 percent of its consolidated assets; or (2) a SLHC that primarily holds insurance-related assets and does not otherwise submit financial reports with the SEC pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

approaches, non CBLR, HCs with less than \$5 billion in total assets): 84; FR Y-9C (non-advanced approaches, non CBLR HCs, with \$5 billion or more in total assets): 154; FR Y-9C (advanced approaches HCs): 19; FR Y-9LP: 434; FR Y-9SP: 3,960; FR Y-9ES: 83; FR Y-9CS: 236.

Estimated average hours per response:

Reporting

FR Y-9C (non-advanced approaches CBLR HCs with less than \$5 billion in total assets): 29.14 hours; FR Y-9C (non-advanced approaches CBLR HCs with \$5 billion or more in total assets): 35.11; FR Y-9C (non-advanced approaches, non CBLR HCs, with less than \$5 billion in total assets): 40.98; FR Y-9C (non-advanced approaches, non CBLR, HCs with \$5 billion or more in total assets): 46.95 hours; FR Y-9C (advanced approaches HCs): 48.59 hours; FR Y-9LP: 5.27 hours; FR Y-9SP: 5.40 hours; FR Y-9ES: 0.50 hours; FR Y-9CS: 0.50 hours.

Recordkeeping

FR Y-9C (non-advanced approaches HCs with less than \$5 billion in total assets), FR Y-9C (non-advanced approaches HCs with \$5 billion or more in total assets), FR Y-9C (advanced approaches HCs), and FR Y-9LP: 1.00 hour; FR Y-9SP, FR Y-9ES, and FR Y-9CS: 0.50 hours.

Estimated annual burden hours:

Reporting

FR Y-9C (non-advanced approaches CBLR HCs with less than \$5 billion in total assets): 8,276 hours; FR Y-9C (non-advanced approaches CBLR HCs with \$5 billion or more in total assets): 4,915; FR Y-9C (non-advanced approaches non CBLR HCs with less than \$5 billion in total assets): 13,769; FR Y-9C (non-advanced approaches non CBLR HCs with \$5 billion or more in

total assets): 28,921 hours; FR Y-9C (advanced approaches HCs): 3,693 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 HCs with less than \$5 billion in total assets): 620 hours; FR Y-9C (non-advanced approaches HCs with \$5 billion or more in total assets): 756 hours; FR Y-9C (advanced approaches HCs): 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 HCs 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 HCs 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. HCs file the FR Y-9C on a quarterly basis, 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 Y-9 family of reports on bank holding

companies (“BHCs”) pursuant to section 5 of the Bank Holding Company Act (“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 (“U.S. IHCs”) 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’s memoranda item 7(g), Schedule HC-P’s item 7(a), and Schedule HC-P’s 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’s memorandum item 2.b. for both the FR Y-9C and FR Y-9SP reports.

Such treatment is appropriate under exemption 4 of the Freedom of Information Act (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's memorandum 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 HCs. The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004.

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 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)).

Current Actions: The Board has temporarily revised the instructions to the FR Y-9C report to accurately reflect the transition provision as modified by the statutory interim final rule and the transition interim final rule. Specifically, the Board has temporarily revised the FR Y-9C general instructions on the FR Y-9C, Schedule HC-R, Part I, to reflect a HC's eligibility to opt-in to the CBLR framework to 8 percent, and allow a two-quarter grace period for an HC that falls below the 8-percent CBLR requirement. In addition, the revised general instructions provide a transition for the to be 8 percent in the second through fourth quarters of calendar year 2020, 8.5 percent in calendar year 2021, and 9 percent in calendar year 2022. HCs report their leverage ratio in Schedule HC-R, Part I, line item 31. A qualifying HC can opt into CBLR by electing in HC-R, Part I, line item 31.a. and must report the qualifying criteria for using the CBLR framework in lines 32 through 3.

The Board has determined that the revisions to the FR Y-9C described above must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection of information, as delaying the revisions would result in the collection of inaccurate information, and would interfere with the Board's ability to perform its statutory duties. The Board also invites comment to extend the FR Y-9 for three years, with the revisions described above.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)¹⁷ requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.¹⁸

¹⁷ 5 U.S.C. 601 et seq.

¹⁸ 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.

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 impracticable and contrary to the public's interest, 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 are interested in receiving feedback on ways that they could reduce any potential burden of the transition interim final rule on small entities.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),¹⁹ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must consider, consistent with the principle of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions,

¹⁹ 12 U.S.C. 4802(a).

including for good cause.²⁰ For the reasons described above, the agencies find good cause exists under section 302 of RCDRIA to publish the transition interim final rule with an immediate effective date.

F. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act²¹ 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 transition interim final rule in a simple and straightforward manner. The agencies invite comments on whether there are additional steps they could take to make the rule easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the regulation contain 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 regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

G. Unfunded Mandates Act

²⁰ 12 U.S.C. 4802.

²¹ 12 U.S.C. 4809.

As a general matter, the Unfunded Mandates 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 the transition interim final rule, the OCC concludes that the requirements of UMRA do not apply to this transition interim final rule.

List of Subjects

12 CFR Part 3

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

12 CFR Part 217

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

12 CFR Part 324

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

DEPARTMENT OF THE TREASURY

12 CFR Chapter I

Office of the Comptroller of the Currency

Authority and Issuance

For the reasons set forth in the preamble, the OCC 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, and 5412(b)(2)(B); and Pub. L. No. 116-136, 134 Stat. 281.

2. Amend § 3.303 by adding paragraph (d) to read as follows:

§ 3.303 Temporary changes to the community bank leverage ratio framework.

* * * * *

(d) Upon the termination of the requirements in paragraphs (a) and (b) of this section as provided in paragraph (c) of this section, a qualifying community banking organization, as defined in §3.12(a)(2), is subject to the following:

(1) Through December 31, 2020:

(i) A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association and that meets all the criteria to be a qualifying community banking organization under §3.12(a)(2) but for §3.12(a)(2)(i) is a qualifying banking organization if it has a leverage ratio greater than 8 percent.

(ii) Notwithstanding §3.12(a)(1), a qualifying community banking organization that has made an election to use the community bank leverage ratio framework under §3.12(a)(3) shall be considered to have met the minimum capital requirements under §3.10, the capital ratio requirements for the well capitalized capital category under §6.4(b)(1) of this chapter, and any other capital or leverage requirements to which the qualifying community banking organization is subject, if it has a leverage ratio greater than 8 percent.

(iii) Notwithstanding §3.12(c)(6) and subject to §3.12(c)(5), a qualifying community banking organization that has a leverage ratio of greater than 7 percent has the grace period described in §3.12(c)(1) through (4). A national bank or Federal savings association that has a leverage ratio of 7 percent or less does not have a grace period and must comply with the minimum capital requirements under §3.10(a)(1) and must report the required capital measures under §3.10(a)(1) for the quarter in which it reports a leverage ratio of 7 percent or less.

(2) From January 1, 2021, through December 31, 2021:

(i) A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association and that meets all the criteria to be a qualifying community banking organization under §3.12(a)(2) but for §3.12(a)(2)(i) is a qualifying banking organization if it has a leverage ratio greater than 8.5 percent.

(ii) Notwithstanding §3.12(a)(1), a qualifying community banking organization that has made an election to use the community bank leverage ratio framework under §3.12(a)(3) shall be considered to have met the minimum capital requirements under §3.10, the capital ratio requirements for the well capitalized capital category under §6.4(b)(1) of this chapter, and any other capital or leverage requirements to which the qualifying community banking organization is subject, if it has a leverage ratio greater than 8.5 percent.

(iii) Notwithstanding §3.12(c)(6) and subject to §3.12(c)(5), a qualifying community banking organization that has a leverage ratio of greater than 7.5 percent has the grace period described in §3.12(c)(1) through (4). A national bank or Federal savings association that has a leverage ratio of 7.5 percent or less does not have a grace period and must comply with the minimum capital requirements under §3.10(a)(1) and must report the required capital measures under §3.10(a)(1) for the quarter in which it reports a leverage ratio of 7.5 percent or less.

* * * * *

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Authority and Issuance

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

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

3. 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 G – Transition Provisions

4. Amend § 217.304 by adding paragraph (d) to read as follows:

§ 217.304 Temporary changes to the community bank leverage ratio framework.

* * * * *

(d) Upon the termination of the requirements in paragraphs (a) and (b) of this section as provided in paragraph (c) of this section, a Board-regulated institution is subject to the following:

(1) Through December 31, 2020:

(i) A Board-regulated institution that is not an advanced approaches Board-regulated institution and that meets all the criteria to be a qualifying community banking organization under §217.12(a)(2) but for §217.12(a)(2)(i) is a qualifying banking organization if it has a leverage ratio greater than 8 percent.

(ii) Notwithstanding §217.12(a)(1), a qualifying community banking organization that has made an election to use the community bank leverage ratio framework under §217.12(a)(3) shall be considered to have met the minimum capital requirements under §217.10, the capital ratio requirements for the well capitalized capital category under §208.43(b)(1) of this chapter, if applicable, and any other capital or leverage requirements to which the qualifying community banking organization is subject, if it has a leverage ratio greater than 8 percent.

(iii) Notwithstanding §217.12(c)(6) and subject to §217.12(c)(5), a Board-regulated institution that has a leverage ratio of greater than 7 percent has the grace period described in §217.12(c)(1) through (4). A Board-regulated institution that has a leverage ratio of 7 percent or less does not have a grace period and must comply with the minimum capital requirements under §217.10(a)(1) and must report the required capital measures under §217.10(a)(1) for the quarter in which it reports a leverage ratio of 7 percent or less.

(2) From January 1, 2021, through December 31, 2021:

(i) A Board-regulated institution that is not an advanced approaches Board-regulated institution and that meets all the criteria to be a qualifying community banking organization under §217.12(a)(2) but for §217.12(a)(2)(i) is a qualifying banking organization if it has a leverage ratio greater than 8.5 percent.

(ii) Notwithstanding §217.12(a)(1), a qualifying community banking organization that has made an election to use the community bank leverage ratio framework under §217.12(a)(3) shall be considered to have met the minimum capital requirements under §217.10, the capital ratio requirements for the well capitalized capital category under §208.43(b)(1) of this chapter, if applicable, and any other capital or leverage requirements to which the qualifying community banking organization is subject, if it has a leverage ratio greater than 8.5 percent.

(iii) Notwithstanding §217.12(c)(6) and subject to §217.12(c)(5), a Board-regulated institution that has a leverage ratio of greater than 7.5 percent has the grace period described in §217.12(c)(1) through (4). A Board-regulated institution that has a leverage ratio of 7.5 percent or less does not have a grace period and must comply with the minimum capital requirements under §217.10(a)(1) and must report the required capital measures under §217.10(a)(1) for the quarter in which it reports a leverage ratio of 7.5 percent or less.

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 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

5. 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. No. 115–174; Pub. L. No. 116–136, 134 Stat. 281.

6. Amend § 324.303 by adding paragraph (d) to read as follows:

§ 324.303 Temporary changes to the community bank leverage ratio framework.

* * * * *

(d) Upon the termination of the requirements in paragraphs (a) and (b) of this section as provided in paragraph (c) of this section, a qualifying community banking organization, as defined in §324.12(a)(2), is subject to the following:

(1) Through December 31, 2020:

(i) An FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution and that meets all the criteria to be a qualifying community banking organization under §324.12(a)(2) but for §324.12(a)(2)(i) is a qualifying banking organization if it has a leverage ratio greater than 8 percent.

(ii) Notwithstanding §324.12(a)(1), a qualifying community banking organization that has made an election to use the community bank leverage ratio framework under §324.12(a)(3) shall be considered to have met the minimum capital requirements under §324.10, the capital ratio requirements for the well capitalized capital category under §324.403(b)(1) of this part, and any other capital or leverage requirements to which the qualifying community banking organization is subject, if it has a leverage ratio greater than 8 percent.

(iii) Notwithstanding §324.12(c)(6) and subject to §324.12(c)(5), a qualifying community banking organization that has a leverage ratio of greater than 7 percent has the grace period described in §324.12(c)(1) through (4). An FDIC-supervised institution that has a leverage ratio of 7 percent or less does not have a grace period and must comply with the minimum capital requirements under §324.10(a)(1) and must report the required capital measures under §324.10(a)(1) for the quarter in which it reports a leverage ratio of 7 percent or less.

(2) From January 1, 2021, through December 31, 2021:

(i) An FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution and that meets all the criteria to be a qualifying community banking organization under §324.12(a)(2) but for §324.12(a)(2)(i) is a qualifying banking organization if it has a leverage ratio greater than 8.5 percent.

(ii) Notwithstanding §324.12(a)(1), a qualifying community banking organization that has made an election to use the community bank leverage ratio framework under §324.12(a)(3) shall be considered to have met the minimum capital requirements under §324.10, the capital ratio requirements for the well capitalized capital category under §324.403(b)(1) of this part, and any other capital or leverage requirements to which the qualifying community banking organization is subject, if it has a leverage ratio greater than 8.5 percent.

(iii) Notwithstanding §324.12(c)(6) and subject to §324.12(c)(5), a qualifying community banking organization that has a leverage ratio of greater than 7.5 percent has the grace period described in §324.12(c)(1) through (4). An FDIC-supervised institution that has a leverage ratio of 7.5 percent or less does not have a grace period and must comply with the minimum capital requirements under §324.10(a)(1) and must report the required capital measures under §324.10(a)(1) for the quarter in which it reports a leverage ratio of 7.5 percent or less.

Brian P. Brooks,
First Deputy 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 April 3, 2020.

Robert E. Feldman,
Executive Secretary.

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