



**Billing Codes: 4810-33P; 6210-01-P; 6714-01-P**

**DEPARTMENT OF TREASURY**  
**Office of the Comptroller of the Currency**  
**12 CFR Part 50**  
**[Docket No. OCC-2020-0019]**  
**RIN 1557-AE92**

**FEDERAL RESERVE SYSTEM**  
**12 CFR Part 249**  
**[Regulations WW; Docket No. R-1717]**  
**RIN 7100-AF90**

**FEDERAL DEPOSIT INSURANCE CORPORATION**  
**12 CFR Part 329**  
**RIN 3064-AF51**

**Liquidity Coverage Ratio Rule: Treatment of Certain Emergency Facilities**

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

**ACTION:** Interim final rule; request for comment.

**SUMMARY:** To provide liquidity to the money market sector, small business lenders, and the broader credit markets in order to stabilize the financial system, the Board of Governors of the Federal Reserve System (Board) authorized the establishment of the Money Market Mutual Fund Liquidity Facility (MMLF) and the Paycheck Protection Program Liquidity Facility (PPPLF), pursuant to section 13(3) of the Federal Reserve Act. To facilitate use of these Federal Reserve facilities, and to ensure that the effects of their use are consistent and predictable under the Liquidity Coverage Ratio (LCR) rule, the Office of the Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation (together, the agencies) are adopting this interim final rule to require banking organizations to neutralize the effect under the LCR rule of participating in the MMLF and the PPPLF.

**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 [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:**

*OCC:* Commenters are encouraged to submit comments through the Federal eRulemaking Portal or e-mail, if possible. Please use the title “Liquidity Coverage Ratio Rule: Treatment of Emergency FRB Secured Lending Facilities” 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-2020-0019” 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-2020-0019” 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](mailto:regulations@erulemakinghelpdesk.com).

- *E-mail:* [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov).
- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW., suite 3E-218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street, SW., suite 3E-218, Washington, DC 20219.
- *Fax:* (571) 465-4326.

*Instructions:* You must include “OCC” as the agency name and “Docket ID OCC-2020-0019” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by 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-2020-0019” 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-2020-0019” 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](mailto: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-1717; RIN 7100-AF90, by any of the following methods:

- Agency website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- E-mail: [regs.comments@federalreserve.gov](mailto: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 personally identifiable information at the commenter’s

request. Accordingly, comments will not be edited to remove any identifying or contact information. 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-AF51, by any of the following methods:

- Agency Website: <https://www.fdic.gov/regulations/laws/federal>. Follow instructions for submitting comments on the Agency website.
- Email: [Comments@FDIC.gov](mailto:Comments@FDIC.gov). Include “RIN 3064-AF51” on the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/RIN 3064-AF51, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.
- Hand Delivered/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.

**FOR FURTHER INFORMATION CONTACT:**

OCC: James Weinberger, Technical Expert, Treasury & Market Risk Policy, (202) 649-6360; or Henry Barkhausen, 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:* Anna Lee Hewko, Associate Director, (202) 530-6360, Constance Horsley, Deputy Associate Director, (202) 452-5239, Kathryn Ballintine, Manager, (202) 452-2555, Kevin Littler, Lead Financial Institution Policy Analyst, (202) 475-6677, Cecily Boggs, Senior Financial Institution Policy Analyst II, (202) 530-6209, Michael Ofori-Kuragu, Senior Financial

Institution Policy Analyst II, (202) 475-6623, or Christopher Powell, Senior Financial Institution Policy Analyst II, (202) 452-3442, Division of Supervision and Regulation; Benjamin McDonough, Assistant General Counsel, (202) 452-2036, Steve Bowne, Senior Counsel, (202) 452-3900, Jason Shafer, Senior Counsel, (202) 728-5811, Laura Bain, Counsel, (202) 736-5546, or Jeffery Zhang, Attorney, (202) 736-1968, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263-4869.

*FDIC*: Bobby R. Bean, Associate Director, bbean@fdic.gov; Irina Leonova, Acting Chief, Capital Markets Strategies Section, ileonova@FDIC.gov; Eric Schatten, Senior Policy Analyst, eschatten@fdic.gov; Andrew Carayiannis, Senior Policy Analyst, acarayiannis@fdic.gov; capitalmarkets@fdic.gov; Capital Markets Branch, Division of Risk Management Supervision, (202) 898-6888; or Suzanne Dawley, Counsel, sudawley@fdic.gov; Gregory Feder, Counsel, gfeder@fdic.gov; Andrew B. Williams II, Counsel, andwilliams@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.

## **SUPPLEMENTARY INFORMATION:**

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## **I. Background**

The containment measures adopted in response to the public health concerns have slowed economic activity in many countries, including the United States. Financial conditions have tightened markedly, sudden disruptions in financial markets have put increasing liquidity pressure on money market mutual funds, and the cost of credit has risen for most borrowers. Given these liquidity pressures, money market mutual funds have been faced with redemption requests from clients with immediate cash needs and may need to sell a significant number of assets to meet such requests, which could further increase market pressures. Small businesses also are facing severe liquidity constraints, as millions of Americans have been ordered to stay home, severely reducing their ability to engage in normal commerce, and revenue streams for many small businesses have collapsed. This has forced many small businesses to close temporarily or furlough employees. Continued access to financing will be crucial for small businesses to weather economic disruptions caused by the containment measures adopted in response to the public health concerns and, ultimately, to help restore economic activity.

In order to prevent the disruption in the money markets from destabilizing the financial system, the Board of Governors of the Federal Reserve System (Board), with the approval of the Secretary of the Treasury, authorized the Federal Reserve Bank of Boston to establish the Money Market Mutual Fund Liquidity Facility (MMLF), pursuant to section 13(3) of the Federal

Reserve Act.<sup>1</sup> Under the MMLF, the Federal Reserve Bank of Boston extends non-recourse loans to eligible borrowers to purchase assets from money market mutual funds (MMFs). Assets purchased from MMFs are posted as collateral to the Federal Reserve Bank of Boston (MMLF collateral). Eligible borrowers under the MMLF include certain banking organizations subject to the Liquidity Coverage Ratio (LCR) rule (covered companies) issued by the Office of the Comptroller of the Currency (OCC), the Board, and the Federal Deposit Insurance Corporation (FDIC) (together, the agencies).<sup>2</sup> MMLF collateral generally comprises securities and other assets with the same maturity date as the MMLF non-recourse loan.

In order to provide liquidity to small business lenders and the broader credit markets, and to help stabilize the financial system, the Board, with the approval of the Secretary of the Treasury, authorized each of the Federal Reserve Banks to extend credit under the Paycheck Protection Program Liquidity Facility (PPPLF), pursuant to section 13(3) of the Federal Reserve Act.<sup>3</sup> Under the PPPLF, each of the Federal Reserve Banks extends non-recourse loans to institutions that are eligible to make Paycheck Protection Program (PPP) covered loans,<sup>4</sup>

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<sup>1</sup> 12 U.S.C. 343(3).

<sup>2</sup> The applicability of the LCR rule is described in § \_\_.1 of the rule. See 12 CFR 50.1 (OCC); 12 CFR 249.1 (Board); and 12 CFR 329.1 (FDIC).

<sup>3</sup> 12 U.S.C. 343(3).

<sup>4</sup> Congress created the PPP as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and in recognition of the exigent circumstances faced by small businesses. PPP covered loans are fully guaranteed as to principal and accrued interest by the Small Business Administration (SBA) and also afford borrower forgiveness up to the principal amount of the PPP covered loan, if the proceeds of the PPP covered loan are used for certain expenses. Under the PPP, eligible borrowers generally include businesses with fewer than 500 employees or that are otherwise considered to be small by the SBA. The SBA reimburses PPP lenders for any amount of a PPP covered loan that is forgiven. PPP lenders are not held liable for any representations made by PPP borrowers in connection with a borrower's request for PPP covered loan forgiveness. For more information on the Paycheck Protection Program, see



including depository institutions subject to the agencies' LCR rule. Under the PPPLF, only PPP covered loans that are guaranteed by the SBA under the PPP with respect to both principal and interest and that are originated by an eligible institution may be pledged as collateral to the Federal Reserve Banks (PPPLF collateral). The maturity date of the extension of credit under the PPPLF equals the maturity date of the PPP loans pledged to secure the extension of credit.<sup>5</sup>

To facilitate the use of the MMLF and PPPLF, the agencies are adopting this interim final rule, which requires covered companies to neutralize the LCR effects of the advances made by each facility and the exposures securing such facility advances.

## **II. The Interim Final Rule**

### ***A. LCR Treatment of MMLF and PPPLF Funding***

The agencies' LCR rule requires covered companies to calculate and maintain an amount of high-quality liquid assets (HQLA) sufficient to cover their total net cash outflows over a 30-day stress period. A covered company's LCR is the ratio of its HQLA amount (LCR numerator) divided by its total net cash outflows (LCR denominator). The total net cash outflow amount is calculated as the difference between outflow and inflow amounts, which are determined by applying a standardized set of outflow and inflow rates to the cash flows of various assets and

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<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>.

<sup>5</sup> The maturity date of the PPPLF's loan will be accelerated if the underlying PPP loan goes into default and the eligible borrower sells the PPP Loan to the Small Business Administration (SBA) to realize the SBA guarantee. The maturity date of the PPPLF's loan also will be accelerated to the extent of any PPP loan forgiveness reimbursement received by the eligible borrower from the SBA.

liabilities, together with off-balance sheet items, as specified in §§ \_\_.32 and \_\_.33 of the LCR rule.<sup>6</sup>

Absent the interim final rule, under the LCR rule, covered companies would be required to recognize outflows for MMLF and PPPLF loans with a remaining maturity of 30 days or less and inflows for certain assets securing the MMLF and PPPLF loans. As a result, a covered company's participation in the MMLF or PPPLF could affect its total net cash outflows, which could potentially result in an inconsistent, unpredictable, and more volatile calculation of LCR requirements across covered companies.

Under the LCR rule, secured loans from a Federal Reserve facility with a remaining maturity of 30 calendar days or less are categorized as secured funding transactions with a sovereign entity and assigned an outflow rate that varies based on the collateral securing the loan.<sup>7</sup> In addition, the LCR rule assigns inflow rates to collateral generally based on the asset and counterparty type.<sup>8</sup> As a result of the applicable inflow and outflow rates in the LCR rule, MMLF and PPPLF transactions could receive a non-neutral liquidity risk treatment. Moreover, after these loans are extended and upon their maturity, the associated inflows and outflows could unnecessarily contribute to volatility in LCRs.

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<sup>6</sup> Section \_\_.30 of the LCR rule also requires a covered company, as applicable, to include in its total net cash outflow amount a maturity mismatch add-on, which is calculated as the difference (if greater than zero) between the covered company's largest net cumulative maturity outflow amount for any of the 30 calendar days following the calculation date and the net day 30 cumulative maturity outflow amount. See 12 CFR 50.30 (OCC); 12 CFR 249.30 (Board); and 12 CFR 329.30 (FDIC).

<sup>7</sup> See 12 CFR 50.32(j)(1)(i)-(iii) (OCC); 12 CFR 249.32(j)(1)(i)-(iii) (Board); and 12 CFR 329.32(j)(1)(i)-(iii) (FDIC).

<sup>8</sup> See 12 CFR 50.33 (OCC); 12 CFR 249.33 (Board); and 12 CFR 329.33 (FDIC).

Under the terms of the MMLF and PPPLF, covered companies use the value of cash received from posted or pledged assets to repay the MMLF or PPPLF loan, respectively, and in no case is the maturity of the collateral shorter than the maturity of the advance. In addition, because the advance from the Federal Reserve Bank is non-recourse, the banking organization is not exposed to credit or market risk from the collateral securing the MMLF or PPPLF loan that could otherwise affect the banking organization's ability to settle the loan. For these reasons, the agencies believe that it is appropriate to provide predictable and consistent treatment for participation in the MMLF and PPPLF by neutralizing the effects of participation in the MMLF and the PPPLF on covered companies' LCRs. Absent this interim final rule, the agencies believe that the treatment of covered companies' transactions with the MMLF and PPPLF under the LCR rule would not be consistent across transactions or facilities and would not accurately reflect the liquidity risk associated with funding exposures through these facilities.

Specifically, the interim final rule adds a new definition to § \_\_.3 and a new § \_\_.34 to the LCR rule. In § \_\_.3, the new definition "Covered Federal Reserve Facility Funding" means a non-recourse loan that is extended as part of the Money Market Mutual Fund Liquidity Facility or Paycheck Protection Program Liquidity Facility authorized by the Board of Governors of the Federal Reserve System pursuant to section 13(3) of the Federal Reserve Act. The new § \_\_.34 requires Covered Federal Reserve Facility Funding and the assets securing such funding to be excluded from the calculation of a covered company's total net cash outflow amount as calculated under § \_\_.30 of the LCR rule, notwithstanding any other section of the LCR rule. Except as described below, this new section excludes advances made by a Federal Reserve Bank under the MMLF or the PPPLF from being assigned an outflow rate under § \_\_.32 of the LCR rule, and any collateral securing such an advance from being assigned an inflow rate under

§ \_\_.33 of the LCR rule. While this treatment would neutralize the effect of the use of the facilities on a covered company's LCR for the duration of the facility, banking organizations should be mindful of the need, where applicable, to replace maturing Covered Federal Reserve Facility Funding with appropriate alternative sources in instances where exposures mature later than such funding.

This new § \_\_.34 does not apply to the extent the covered company secures Covered Federal Reserve Facility Funding with securities, debt obligations, or other instruments issued by the covered company or its consolidated entity. When a covered company owns an instrument that it or its consolidated entity issued, the covered company will not record a payment upon the instrument's maturity. The covered company would not receive a payment from outside the consolidated covered company upon maturity or settlement of the collateral that would be available to repay the borrowing (Covered Federal Reserve Facility Funding), and, as a result, this arrangement presents liquidity risk due to the asymmetric cash flows of the covered company because the covered company would not have an inflow to offset its cash outflows.<sup>9</sup> It would, therefore, be inappropriate to neutralize the impact of such a funding transaction under the LCR rule. The agencies seek comment on this provision and all aspects of the interim final rule.

*Question 1: The agencies invite comment on the advantages and disadvantages of neutralizing the effects of participating in the MMLF and PPPLF in the LCR rule.*

*Question 2: How well does the approach in the interim final rule support the objectives*

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<sup>9</sup> The covered company would not record a payment to itself in the amount owed for the instrument issued by the covered company or its consolidated entity; this would be eliminated in the process of consolidating the covered company's financial statements.

*of the facilities?*

*Question 3: What are the advantages and disadvantages of extending this treatment to any other facilities created pursuant to section 13(3) of the Federal Reserve Act in which covered company exposures are pledged as collateral for non-recourse, maturity-matched advances?*

*Question 4: What are the advantages and disadvantages of excluding from this treatment Covered Federal Reserve Facility Funding that is secured by instruments issued by a covered company or any of its consolidated entities?*

### **III. Administrative Law Matters**

#### ***A. Administrative Procedure Act***

The agencies are issuing the interim final rule without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).<sup>10</sup> 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.”<sup>11</sup>

The agencies believe that the public interest is best served by implementing the interim final rule immediately upon publication in the *Federal Register*. As discussed above, the containment measures adopted in response to the public health concerns have slowed economic

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<sup>10</sup> 5 U.S.C. 553.

<sup>11</sup> 5 U.S.C. 553(b)(B).

activity in many countries, including the United States. In particular, these containment measures have acutely affected small businesses, MMFs, and financial markets generally.

Significantly tighter financial conditions and the increased cost of credit for most borrowers have severely affected small businesses. As millions of Americans have been ordered to stay home, severely reducing their ability to engage in normal commerce, revenue streams for many small businesses have collapsed. This has resulted in severe liquidity constraints at small businesses and has forced many small businesses to close temporarily or furlough employees. Continued access to financing will be crucial for small businesses to weather economic disruptions caused by the containment measures adopted in response to the public health concerns and, ultimately, to help restore economic activity.

Additionally, sudden disruptions in financial markets have put increasing liquidity pressure on MMFs. Given these pressures, MMFs have been faced with increased redemption requests from clients with immediate cash needs. The MMFs may need to sell a significant number of assets to meet these redemption requests, which could further increase market pressures.

In order to provide liquidity to banking organizations that lend to small business and the broader credit markets, and to prevent the disruption in the money markets from destabilizing the financial system, the Board, with approval of the Secretary of the Treasury, authorized each of the Federal Reserve Banks to extend credit under the PPPLF and the Federal Reserve Bank of Boston to establish the MMLF. This interim final rule will provide certainty to covered companies regarding the liquidity treatment of inflows and outflows related to these Federal Reserve lending programs. In the absence of this interim final rule, banking organizations may be restricted in their ability to use the MMLF and PPPLF due to potential effects on their LCRs.

The urgent funding pressures facing small businesses and MMFs justify the adoption of this interim final rule as quickly as possible. For these reasons, the agencies find that there is good cause consistent with the public interest to issue the interim final rule without advance notice and comment.<sup>12</sup>

The APA also requires a 30-day delayed effective date, except for (1) substantive rules that 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.<sup>13</sup> For the good cause described above, the interim final rule is exempt from the APA's delayed effective date requirement.<sup>14</sup>

While the agencies believe that there is good cause to issue the interim final rule without advance notice and comment and with an immediate effective date, 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 (CRA), the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a “major” rule.<sup>15</sup> If a rule is deemed a “major rule” by the OMB, the CRA generally provides that the rule may not take effect until at least 60 days following its publication.<sup>16</sup>

The CRA defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in

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<sup>12</sup> 5 U.S.C. 553(b)(B).

<sup>13</sup> 5 U.S.C. 553(d).

<sup>14</sup> 5 U.S.C. 553(d)(1).

<sup>15</sup> 5 U.S.C. 801 et seq.

<sup>16</sup> 5 U.S.C. 801(a)(3).

(1) an annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.<sup>17</sup>

For the same reasons set forth above, the agencies are adopting the interim final rule without the delayed effective date generally prescribed under the CRA. The delayed effective date required by the CRA does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.<sup>18</sup> In light of current market uncertainty, the agencies believe that delaying the effective date of the rule would be contrary to the public interest.

As required by the CRA, the agencies will submit the 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 (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.<sup>19</sup> This interim final rule does not introduce any new information collections or revise any existing information collections pursuant to the PRA for the OCC or the FDIC. Therefore, no submissions will be made by the OCC or the FDIC to OMB for

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<sup>17</sup> 5 U.S.C. 804(2).

<sup>18</sup> 5 U.S.C. 808.

<sup>19</sup> 4 U.S.C. 3501-3521.



review. The interim final rule does, however, affect the Board's current information collection for the Complex Institution Liquidity Monitoring Report (FR 2052a; OMB No. 7100-0361). The Board has reviewed the interim final rule pursuant to authority delegated by OMB.

The Board has temporarily revised the reporting form and instructions for the FR 2052a to reflect the changes made in this interim final rule. On June 15, 1984, OMB delegated to the Board authority under the PRA to approve a temporary revision to a collection of information without providing opportunity for public comment if the Board determines that a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its statutory obligation.

The Board's delegated authority requires that the Board, after temporarily approving a collection, solicit public comment on a proposal to extend the temporary collection for a period not to exceed three years. Therefore, the Board is inviting comment on a proposal to extend the FR 2052a for three years, with such revisions. The Board invites public comment on the FR 2052a, which is being reviewed under authority delegated by the OMB under the PRA.

Comments are invited on the following:

- a. Whether the collection of information in the interim final rule 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 proposed information collection in the interim final rule, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;

- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

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

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

*Report title:* Complex Institution Liquidity Monitoring Report.

*Agency form number:* FR 2052a.

*OMB control number:* 7100-0361.

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

*Frequency:* Monthly, and each business day (daily).

*Affected public:* Businesses or other for-profit.

*Respondents:* U.S. bank holding companies (BHCs), U.S. savings and loan holding companies (SLHCs), and foreign banking organizations (FBOs) with U.S. assets.

*Estimated number of respondents:* Monthly, 26; daily, 16.

*Estimated average hours per response:* Monthly, 120; daily, 220.

*Estimated annual burden hours:* 917,440.

*General description of report:* The Board uses the FR 2052a to monitor the overall liquidity profile of supervised institutions. These data provide detailed information on the liquidity risks

within different business lines (e.g., financing of securities positions, prime brokerage activities). In particular, these data serve as part of the Board's supervisory surveillance program in its liquidity risk management area and provide timely information on firm-specific liquidity risks during periods of stress. Analyses of systemic and idiosyncratic liquidity risk issues are then used to inform the Board's supervisory processes, including the preparation of analytical reports that detail funding vulnerabilities.

*Legal authorization and confidentiality:* The FR 2052a is authorized pursuant to section 5 of the Bank Holding Company Act (12 U.S.C. 1844), section 8 of the International Banking Act (12 U.S.C. 3106), section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (12 U.S.C. 5365), and section 10 of the Home Owners' Loan Act (12 U.S.C. 1467(a)) and is mandatory. Section 5(c) of the Bank Holding Company Act authorizes the Board to require BHCs to submit reports to the Board regarding their financial condition. Section 8(a) of the International Banking Act subjects FBOs to the provisions of the Bank Holding Company Act. Section 165 of the Dodd-Frank Act requires the Board to establish prudential standards for certain BHCs and FBOs, which include liquidity requirements. Section 10(g) of the Home Owners' Loan Act authorizes the Board to collect reports from SLHCs.

Financial institution information required by the FR 2052a is collected as part of the Board's supervisory process. Therefore, such information is entitled to confidential treatment under Exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, the institution information provided by each respondent would not be otherwise available to the public and its disclosure could cause substantial competitive harm. Accordingly, it is entitled to confidential treatment under the authority of exemption 4 of the FOIA (5 U.S.C. 552(b)(4)), which protects from disclosure trade secrets and commercial or financial information.

*Current actions:* The Board has temporarily revised the reporting form and instructions of the FR 2052a to incorporate the interim final rule. Specifically, the Board has added: (1) the sub-product value of “Covered Federal Reserve Facility Funding” to the product O.S.6: Exceptional Central Bank Operations and a corresponding instruction to exclude balances reported under this sub-product from the pre-existing sub-product of “Federal Reserve Bank”; (2) a sentence to the “General Guidance” paragraphs under the I.U: Inflows-Unsecured and I.S: Inflows-Secured headings: “Exclude assets that secure Covered Federal Reserve Facility Funding”; (3) a sentence to the definition of product I.O.6: Interest and Dividends Receivable: “Exclude interest and dividends receivable on assets securing Covered Federal Reserve Facility Funding”; (4) a sentence to the definition of product O.O.19: Interest and Dividends Payable: “Exclude interest payable on Covered Federal Reserve Facility Funding”; and (5) a collateral class of “L-12” representing loans guaranteed by U.S. Government agencies.

The Board has determined that these temporary revisions to the FR 2052a 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 interfere with the Board’s ability to perform its statutory duties and would cause public harm if firms were unable to take full advantage of the emergency relief provided by the MMLF in response to significant financial industry disruptions from the containment measures adopted in response to the public health concerns.

In addition, the Board proposes to extend the FR 2052a for three years with the revisions discussed above.

#### ***D. Regulatory Flexibility Act***

The Regulatory Flexibility Act (RFA)<sup>20</sup> requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.<sup>21</sup> The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(B) of the APA, the agencies have determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the agencies are not issuing a notice of proposed rulemaking. Accordingly, the agencies have concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

Nevertheless, the agencies seek comment on whether, and the extent to which, the interim final rule would have a significant economic impact on a substantial number of 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),<sup>22</sup> 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

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<sup>20</sup> 5 U.S.C. 601 et seq.

<sup>21</sup> 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.

<sup>22</sup> 12 U.S.C. 4802(a).

such regulations. In addition, section 302(b) of the 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, including for good cause.<sup>23</sup> For the reasons described above, the agencies find good cause exists under section 302 of the RCDRIA to publish the interim final rule with an immediate effective date.

As such, the interim final rule will be effective immediately. Nevertheless, the agencies seek comment on the RCDRIA.

#### ***F. Use of Plain Language***

Section 722 of the Gramm-Leach-Bliley Act<sup>24</sup> requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the interim final rule in a simple and straightforward manner. The agencies invite comments on whether there are additional steps it 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?

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<sup>23</sup> 12 U.S.C. 4802.

<sup>24</sup> 12 U.S.C. 4809.

- 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. *OCC Unfunded Mandates Reform Act of 1995 Determination***

As a general matter, the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531 et seq., requires the preparation of a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published.<sup>25</sup> Therefore, because the OCC has found good cause to dispense with notice and comment for the interim final rule, the OCC has not prepared an economic analysis of the rule under the UMRA.

**List of Subjects**

**12 CFR Part 50**

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

**12 CFR Part 249**

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements.

**12 CFR Part 329**

Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements.

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<sup>25</sup> See 2 U.S.C. 1532(a).

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Chapter I**

**Authority and Issuance**

For the reasons stated in the preamble, the Office of the Comptroller of the Currency amends part 50 of chapter I of title 12, Code of Federal Regulations as follows:

**PART 50—LIQUIDITY RISK MEASUREMENT STANDARDS**

1. The authority citation for part 50 continues to read as follows:

Authority: 12 U.S.C. 1 et seq., 93a, 481, 1818, 1828, and 1462 et seq.

2. Amend § 50.3 by adding the definition of *Covered Federal Reserve Facility Funding*, in alphabetical order, to read as follows:

**§ 50.3 Definitions.**

\* \* \* \* \*

*Covered Federal Reserve Facility Funding* means a non-recourse loan that is extended as part of the Money Market Mutual Fund Liquidity Facility or Paycheck Protection Program Liquidity Facility authorized by the Board of Governors of the Federal Reserve System pursuant to section 13(3) of the Federal Reserve Act.<sup>1</sup>

\* \* \* \* \*

3. Add § 50.34 to read as follows:

**§ 50.34 Cash flows related to Covered Federal Reserve Facility Funding.**

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<sup>1</sup> The Money Market Mutual Fund Liquidity Facility was authorized on March 18, 2020, and the Paycheck Protection Program Liquidity Facility was authorized on April 6, 2020.



(a) *Treatment of Covered Federal Reserve Facility Funding.* Notwithstanding any other section of this part and except as provided in paragraph (b) of this section, outflow amounts and inflow amounts related to Covered Federal Reserve Facility Funding and the assets securing Covered Federal Reserve Facility Funding are excluded from the calculation of a national bank's or Federal savings association's total net cash outflow amount calculated under § 50.30.

(b) *Exception.* To the extent the Covered Federal Reserve Facility Funding is secured by securities, debt obligations, or other instruments issued by the national bank or Federal savings association or one of its consolidated subsidiaries, the Covered Federal Reserve Facility Funding is not subject to paragraph (a) of this section and this outflow amount must be included in the national bank's or Federal savings association's total net cash outflow amount calculated under § 50.30.

## **Board of Governors of the Federal Reserve System**

### **12 CFR Chapter II**

#### **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 249—LIQUIDITY RISK MEASUREMENT STANDARDS (REGULATION WW)**

4. The authority citation for part 249 continues to read as follows:

Authority: 12 U.S.C. 248(a), 321-338a, 481-486, 1467a(g)(1), 1818, 1828, 1831p-1, 1831o-1, 1844(b), 5365, 5366, 5368; 12 U.S.C. 3101 et seq.

5. Amend § 249.3 by redesignating footnotes 1 and 2 as footnotes 2 and 3 and adding the definition of *Covered Federal Reserve Facility Funding*, in alphabetical order, to read as follows:

#### **§ 249.3 Definitions.**

\* \* \* \* \*

*Covered Federal Reserve Facility Funding* means a non-recourse loan that is extended as part of the Money Market Mutual Fund Liquidity Facility or Paycheck Protection Program Liquidity Facility authorized by the Board pursuant to section 13(3) of the Federal Reserve Act.<sup>1</sup>

\* \* \* \* \*

6. Add § 249.34 to read as follows:

**§ 249.34 Cash flows related to Covered Federal Reserve Facility Funding.**

(a) *Treatment of Covered Federal Reserve Facility Funding.* Notwithstanding any other section of this part and except as provided in paragraph (b) of this section, outflow amounts and inflow amounts related to Covered Federal Reserve Facility Funding and the assets securing Covered Federal Reserve Facility Funding are excluded from the calculation of a Board-regulated institution's total net cash outflow amount calculated under § 249.30.

(b) *Exception.* To the extent the Covered Federal Reserve Facility Funding is secured by securities, debt obligations, or other instruments issued by the Board-regulated institution or one of its consolidated subsidiaries, the Covered Federal Reserve Facility Funding is not subject to paragraph (a) of this section and this outflow amount must be included in the Board-regulated institution's total net cash outflow amount calculated under § 249.30.

**Federal Deposit Insurance Corporation**

**12 CFR Chapter III**

**Authority and Issuance**

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<sup>1</sup> The Money Market Mutual Fund Liquidity Facility was authorized on March 18, 2020, and the Paycheck Protection Program Liquidity Facility was authorized on April 6, 2020.

For the reasons set forth in the joint preamble, chapter III of title 12 of the Code of Federal Regulations is amended as follows:

**PART 329—LIQUIDITY RISK MEASUREMENT STANDARDS**

7. The authority citation for part 329 continues to read as follows:

Authority: 12 U.S.C. 1815, 1816, 1818, 1819, 1828, 1831p-1, 5412.

8. Amend § 329.3 by redesignating footnotes 1 and 2 as footnotes 2 and 3 and adding the definition of *Covered Federal Reserve Facility Funding*, in alphabetical order, to read as follows:

**§ 329.3 Definitions.**

\* \* \* \* \*

*Covered Federal Reserve Facility Funding* means a non-recourse loan that is extended as part of the Money Market Mutual Fund Liquidity Facility or Paycheck Protection Program Liquidity Facility authorized by the Board of Governors of the Federal Reserve System pursuant to section 13(3) of the Federal Reserve Act.<sup>1</sup>

\* \* \* \* \*

9. Add § 329.34 to read as follows:

**§ 329.34 Cash flows related to Covered Federal Reserve Facility Funding.**

(a) *Treatment of Covered Federal Reserve Facility Funding.* Notwithstanding any other section of this part and except as provided in paragraph (b) of this section, outflow amounts and inflow amounts related to Covered Federal Reserve Facility Funding and the assets securing

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<sup>1</sup> The Money Market Mutual Fund Liquidity Facility was authorized on March 18, 2020, and the Paycheck Protection Program Liquidity Facility was authorized on April 6, 2020.

Covered Federal Reserve Facility Funding are excluded from the calculation of a FDIC-supervised institution's total net cash outflow amount calculated under §329.30.

(b) *Exception.* To the extent the Covered Federal Reserve Facility Funding is secured by securities, debt obligations, or other instruments issued by the FDIC-supervised institution or one of its consolidated subsidiaries, the Covered Federal Reserve Facility Funding is not subject to paragraph (a) of this section and this outflow amount must be included in the FDIC-supervised institution's total net cash outflow amount calculated under § 329.30.

**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 30, 2020.

**Robert E. Feldman,**  
*Executive Secretary.*

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