

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

DEPARTMENT OF TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

Docket ID OCC-2020-0016

RIN 1557-AE88

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R-1710]

RIN 7100-AF84

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064-AF45

Regulatory Capital Rule: Temporary Changes to 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 makes temporary changes to the community bank leverage ratio framework, pursuant to section 4012 of the Coronavirus Aid, Relief, and Economic Security Act (statutory interim final rule). As of the second quarter 2020, a banking organization with a leverage ratio of 8 percent or greater (and that meets other qualifying criteria) may elect to use the community bank leverage ratio framework. 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, so long as the banking organization maintains a leverage ratio of 7 percent or greater. The temporary changes to the community bank leverage ratio framework implemented by this statutory interim final rule will cease to be effective as of the earlier of the termination date of the national

emergency concerning the coronavirus disease declared by the President on March 13, 2020, under the National Emergencies Act, or December 31, 2020. To provide clarity to banking organizations, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation issued concurrently an interim final rule that provides a transition from the temporary 8-percent community bank leverage ratio requirement to a 9-percent community bank leverage ratio requirement.

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: Temporary Changes to 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: Temporary Changes to 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 □CC-2020-0016” 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 □CC-2020-0016” 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 □CC-2020-0016” 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 CC-2020-0016” 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 CC-2020-0016” 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- and RIN 7100-AF, by any of the following methods:

1. **Agency Web Site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
2. **E-mail:** regs.comments@federalreserve.gov. Include docket and RIN numbers in the subject line of the message.
3. **FAX:** (202) 452-3819 or (202) 452-3102.
4. **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-AF45, 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-AF45 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-AF45.”

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; or 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.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background on the Community Bank Leverage Ratio Framework
- II. Section 4012 of the Coronavirus Aid, Relief, and Economic Security Act
- III. Temporary Changes to the Community Bank Leverage Ratio Framework
- IV. Effective Date of the Statutory Interim Final Rule
- V. Transition Interim Final Rule
- VI. Administrative Law Matters
 - A. Administrative Procedure Act
 - B. Congressional Review Act
 - C. Paperwork Reduction Act
 - D. Regulatory Flexibility Act
 - E. Riegle Community Development and Regulatory Improvement Act of 1994
 - F. Use of Plain Language
 - G. Unfunded Mandates Act

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 qualifying community banking organizations.¹ Under section 201(c) of EGRRCPA, a qualifying community banking organization that 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” capital 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 rule, the agencies established a community bank leverage ratio of 9 percent using the capital

¹ Pub. L. 115-174, 132 Stat. 1296, 1306–07 (2018) (codified at 12 U.S.C. 5371 note). The authorizing statues use the term “qualifying community bank,” whereas the regulation implementing the statues 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 such other factors that the agencies determine appropriate.

² 84 FR 61776 (November 13, 2019).

rule's 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. Section 4012 of the Coronavirus Aid, Relief, and Economic Security Act

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law.⁵ The CARES Act directs the agencies to make temporary changes to the community bank leverage ratio framework. Specifically, 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.

Under section 4012 of the CARES Act, this interim final rule (statutory interim final rule) is effective during the period beginning on the date on which the agencies issue the statutory 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).

III. Temporary Changes to the Community Bank Leverage Ratio Framework

In accordance with section 4012 of the CARES Act, the statutory interim final rule makes certain temporary changes to the community bank leverage ratio framework. Effective as of

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

[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the community bank leverage ratio will be 8 percent until the termination date of the statutory interim final rule. A banking organization with a leverage ratio of 8 percent or greater (and that meets the other qualifying criteria) may elect to use the community bank leverage ratio framework during the time the interim final rule is in effect.

In addition, under the statutory interim final rule, a community banking organization that temporarily fails to meet any of the qualifying criteria, including the 8-percent community bank leverage ratio requirement, generally will still be considered well capitalized so long as the banking organization maintains a leverage ratio equal to 7 percent or greater. 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 will be required to comply with the generally applicable rule and file the appropriate regulatory reports.⁶ The statutory interim final rule does not make any changes to the other qualifying criteria in the community bank leverage ratio framework.

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 8-percent community bank leverage ratio requirement a reasonable amount of time to satisfy that

⁶ 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.

requirement, consistent with section 4012 of the CARES Act.

IV. Effective Date of the Statutory Interim Final Rule

The statutory interim final rule is effective as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Banking organizations may utilize the requirements under the statutory interim final rule for purposes of filing their Call Report or Form FR Y-9C, as applicable, for the second quarter of 2020 (i.e., as of June 30, 2020).

V. Transition Interim Final Rule

The agencies are issuing concurrently an interim final rule that provides a transition from the temporary 8-percent community bank leverage ratio requirement, as mandated under section 4012 of the CARES Act, to the 9-percent community bank leverage ratio requirement, as established by the agencies in the 2019 final rule (transition interim final rule). When the requirements in the transition interim final rule become applicable, 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. Section 201 of EGRRCPA requires a qualifying community banking organization to 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. The agencies are issuing the transition interim final rule to provide community banking organizations with sufficient time and clarity to meet the requirements 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 COVID–19 emergency.

Question 1: The agencies invite comment on the grace period under the statutory interim final rule. Specifically, what are the advantages and disadvantages of the period of time the statutory interim final rule provides for a banking organization that no longer meets the qualifying criteria to transition to the generally applicable rule? What other alternatives should the agencies consider providing as a reasonable grace period, as required under section 4012 of the CARES Act, for a banking organization that no longer meets the definition of a qualifying community banking organization and why?

VI. Administrative Law Matters

A. Administrative Procedure Act

The agencies are issuing the statutory 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).⁷ Pursuant to section 553(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.”⁸

The agencies believe that the public interest is best served by implementing the statutory interim final rule immediately upon publication in the *Federal Register*. 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

⁷ 5 U.S.C. 553.

⁸ 5 U.S.C. 553(b)(B).

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 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.⁹ Because the rules relieve a restriction, the statutory interim final rule is exempt from the APA's delayed effective date requirement.¹⁰ Additionally, the agencies find good cause to publish the statutory interim final rule with an immediate effective date for the same reasons set forth above under the discussion of section 553(b)(B) of the APA.

While the agencies believe that there is good cause to issue the statutory 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 statutory interim final rule.

B. Congressional Review Act

For purposes of Congressional Review Act, the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a “major” rule.¹¹ If a rule is

⁹ 5 U.S.C. 553(d).

¹⁰ 5 U.S.C. 553(d)(1).

¹¹ 5 U.S.C. 801 et seq.

deemed a “major rule” by OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.¹²

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.¹³

For the same reasons set forth above, the agencies are adopting the statutory 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, unnecessary, or contrary to the public interest.¹⁴ In light of section 4012 of the CARES Act, the agencies believe that delaying the effective date of the statutory interim final rule would be contrary to the public interest.

As required by the Congressional Review Act, the agencies will submit the statutory interim final rule and other appropriate reports to Congress and the Government Accountability Office for review.

C. Paperwork Reduction Act

¹² 5 U.S.C. 801(a)(3).

¹³ 5 U.S.C. 804(2).

¹⁴ 5 U.S.C. 808.

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 statutory 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 statutory interim final rule pursuant to authority delegated by the OMB.

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

In addition, there are changes that the Board should make to the Financial Statements for Holding Companies (FR Y-9 reports; OMB No. 7100-0128) to accurately reflect the changes of the statutory interim final rule. The Board will separately address these changes to the FR Y-9 reports and their instructions in the transition interim final rule.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)¹⁵ requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.¹⁶ 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 statutory 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),¹⁷ 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

¹⁵ 5 U.S.C. 601 et seq.

¹⁶ 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.

¹⁷ 12 U.S.C. 4802(a).

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, including for good cause.¹⁸ For the reasons described above, the agencies find good cause exists under section 302 of RCDRIA to publish the statutory interim final rule with an immediate effective date.

F. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act¹⁹ 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 statutory 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?

¹⁸ 12 U.S.C. 4802.

¹⁹ 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. Unfunded Mandates Act

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 this statutory interim final rule, the OCC concludes that the requirements of UMRA do not apply to this statutory interim final rule.

List of Subjects in 12 CFR

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.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

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 is revised to read as follows:

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, 5412(b)(2)(B), and Pub. L. No. 116-136, 134 Stat. 281.

2. Section 3.303 is added to read as follows:

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

(a)(1) 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 community banking organization if it has a leverage ratio equal to or greater than 8 percent.

(2) 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 equal to or greater than 8 percent.

(b) Notwithstanding §3.12(c)(6) and subject to §3.12(c)(5), a qualifying community banking organization that has a leverage ratio of 7 percent or greater 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 less than 7 percent 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 less than 7 percent.

(c) Pursuant to section 4012 of the Coronavirus Aid, Relief, and Economic Security Act, the requirements provided under paragraphs (a) and (b) of this section are effective during the period beginning on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending on the sooner of (1) the termination date of the national emergency concerning the novel coronavirus disease outbreak declared by the President on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.); or (2) December 31, 2020.

* * * * *

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Chapter II

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

Q)

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 is revised 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. Add §217.304 to read as follows:

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

(a)(1) 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 community banking organization if it has a leverage ratio equal to or greater than 8 percent.

(2) 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 equal to or greater than 8 percent.

(b) Notwithstanding §217.12(c)(6) and subject to §217.12(c)(5), a Board-regulated institution that has a leverage ratio of 7 percent or greater has the grace period described in §217.12(c)(1) through (4). A Board-regulated institution that has a leverage ratio of less than 7

percent 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 less than 7 percent.

(c) Pursuant to section 4012 of the Coronavirus Aid, Relief, and Economic Security Act, the requirements provided under paragraphs (a) and (b) of this section are effective during the period beginning on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending on the sooner of (1) the termination date of the national emergency concerning the novel coronavirus disease outbreak declared by the President on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.); or (2) December 31, 2020.

* * * * *

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

1. 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.

2. Add section 324.303 to read as follows:

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

(a)(1) 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 community banking organization if it has a leverage ratio equal to or greater than 8 percent.

(2) 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 equal to or greater than 8 percent.

(b) Notwithstanding §324.12(c)(6) and subject to §324.12(c)(5), a qualifying community banking organization that has a leverage ratio of 7 percent or greater has the grace period described in §324.12(c)(1) through (4). An FDIC-supervised institution that has a leverage ratio of less than 7 percent 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 less than 7 percent.

(c) Pursuant to section 4012 of the Coronavirus Aid, Relief, and Economic Security Act, the requirements provided under paragraphs (a) and (b) of this section are effective during the period beginning on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and

ending on the sooner of (1) the termination date of the national emergency concerning the novel coronavirus disease outbreak declared by the President on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.); or (2) December 31, 2020.

**[THIS SIGNATURE PAGE RELATES TO THE DOCUMENT TITLED
“REGULATORY CAPITAL RULE: TEMPORARY CHANGES TO THE COMMUNITY
BANK LEVERAGE RATIO FRAMEWORK”]**

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.