

## PART 46—ANNUAL STRESS TEST

Sec.

- 46.1 Authority and purpose.
- 46.2 Definitions.
- 46.3 Applicability.
- 46.4 Reservation of authority.
- 46.5 Annual stress test.
- 46.6 Stress test methodologies and practices.
- 46.7 Reports to the Office of the Comptroller of the Currency and the Federal Reserve Board.
- 46.8 Publication of disclosures.

AUTHORITY: 12 U.S.C. 93a; 12 U.S.C. 1463(a)(2); 12 U.S.C. 5365(i)(2); 12 U.S.C. 5412(b)(2)(B).

EFFECTIVE DATE NOTE: At 79 FR 71633, Dec. 3, 2014, the authority citation for part 46 was revised, effective Jan. 2, 2015. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 12 U.S.C. 93a; 1463(a)(2); 5365(i)(2); and 5412(b)(2)(B).

SOURCE: 77 FR 61246, Oct. 9, 2012, unless otherwise noted.

#### § 46.1 Authority and purpose.

(a) *Authority.* 12 U.S.C. 93a; 12 U.S.C. 1463(a)(2); 12 U.S.C. 5365(i)(2); 12 U.S.C. 5412(b)(2)(B).

(b) *Purpose.* This part implements 12 U.S.C. 5365(i)(2), which requires a national bank or Federal savings association with total consolidated assets of more than \$10 billion to conduct an annual stress test and establishes a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements.

#### § 46.2 Definitions.

For purposes of this part, the following definitions apply:

*\$10 to \$50 billion covered institution* means a national bank or Federal savings association with average total consolidated assets, calculated as required under this part, that are greater than \$10 billion but less than \$50 billion.

*Call Report* means the Consolidated Report of Condition and Income.

*Covered institution* means a \$10 to \$50 billion covered institution or an over \$50 billion covered institution.

*Federal savings association* has the same meaning as in 12 U.S.C. 1813(b)(2).

*Over \$50 billion covered institution* means a national bank or Federal sav-

ings association with average total consolidated assets, calculated as required under this part, that are not less than \$50 billion.

*Planning horizon* means a set period of time over which the impact of the scenarios is assessed.

*Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

*Scenarios* means sets of conditions that affect the U.S. economy or the financial condition of a covered institution that the OCC annually determines are appropriate for use in the stress tests under this part, including, but not limited to, baseline, adverse, and severely adverse scenarios.

*Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered institution over the planning horizon, taking into account the covered institution's current condition, risks, exposures, strategies, and activities.

#### § 46.3 Applicability.

(a) *Measurement of average total consolidated assets for a covered institution.* A covered institution's average total consolidated assets is calculated as the average of the covered institution's total consolidated assets, as reported on the covered institution's Call Reports, for the four most recent consecutive quarters. If the covered institution has not filed a Call Report for each of the four most recent consecutive quarters, the covered institution's average total consolidated assets is calculated as the average of the covered institution's total consolidated assets, as reported on the covered institution's Call Reports, for the most recent one or more consecutive quarters. The date on which a national bank or Federal savings association becomes a covered institution shall be the as-of date of the most recent Call Report used in the calculation of the average.

(b) *First stress test for covered institutions subject to stress testing requirements as of October 9, 2012.* (1) A national bank or Federal savings association that is a \$10 to \$50 billion covered institution, as defined in § 46.2 of this part, as of October 9, 2012 must conduct its first stress

§ 46.4

12 CFR Ch. I (1–1–15 Edition)

test under this part using financial statement data as of September 30, 2013, and report the results of its stress test on or before March 31, 2014.

(2) A national bank or Federal savings association that is an over \$50 billion covered institution, as defined in § 46.2 of this part, as of October 9, 2012 must conduct its first stress test under this part using financial statement data as of September 30, 2012, and report the results of its stress test on or before January 5, 2013.

(c) *Covered institutions that become subject to stress testing requirements after October 9, 2012.* A national bank or Federal savings association that becomes a covered institution, as defined in § 46.2 of this part, after October 9, 2012 shall conduct its first annual stress test under this part beginning in the next calendar year after the date the national bank or Federal savings association becomes a covered institution.

(d) *Ceasing to be a covered institution or changing categories.* (1) A covered institution shall remain subject to the stress test requirements based on its applicable category, as defined in § 46.2 of this part, unless and until total consolidated assets of the covered institution falls below the relevant size threshold for each of four consecutive quarters as reported by the covered institution’s most recent Call Reports. The calculation shall be effective on the “as of” date of the fourth consecutive Call Report.

(2) Notwithstanding paragraph (d)(1) of this section, a national bank or Federal savings association that migrates from a \$10 to \$50 billion covered institution to an over \$50 billion covered institution shall be subject to the stress test requirements applicable to an over \$50 billion covered institution immediately as of the date the national bank or Federal savings association satisfies the size threshold for an over \$50 billion covered institution, as defined in § 46.2 of this part.

(e) *Covered institution under bank holding company subject to annual stress test requirements.* (1) Notwithstanding the requirements applicable to a \$10 to \$50 billion covered institution under this part, a \$10 to \$50 billion covered institution that is controlled by a bank holding company or savings and loan

holding company that is subject to annual stress test requirements pursuant to applicable regulations of the Board of Governors of the Federal Reserve System may elect to conduct its stress test under this part pursuant to the requirements applicable to an over \$50 billion covered institution.

(2) Any \$10 to \$50 billion covered institution that elects to apply the requirements of an over \$50 billion covered institution under this paragraph shall remain subject to the requirements applicable to an over \$50 billion covered institution until otherwise approved by the OCC.

EFFECTIVE DATE NOTE: At 79 FR 71633, Dec. 3, 2014, § 46.3 was amended by revising paragraph (c), effective Jan. 2, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 46.3 Applicability.

\* \* \* \* \*

(c) *Covered institutions that become subject to stress testing requirements under revised Annual Stress Test schedule.* A national bank or Federal savings association that becomes a covered institution, as defined in § 46.2, after March 31, 2014 and on or before March 31, 2015 shall conduct its first annual stress test in the stress test beginning January 1, 2016. A national bank or Federal savings association that becomes a covered institution on or before March 31 of a given year (after 2014) shall conduct its first annual stress test under this part in the next calendar year after the date the national bank or Federal savings association becomes a covered institution. A national bank or Federal savings association that becomes a covered institution after March 31 of a given year (after 2014) shall conduct its first annual stress test under this part in the second calendar year after the date the national bank or Federal savings association becomes a covered institution.

\* \* \* \* \*

§ 46.4 Reservation of authority.

(a) *Generally.* The OCC may require a national bank or Federal savings association not otherwise subject to this part to comply with the stress test requirements of this part. With respect to any national bank or Federal savings association subject to the stress test requirements of this part pursuant to § 46.3(a), the OCC may modify or

delay some or all of the requirements of this part which include:

(1) *Timing of stress test.* The OCC may accelerate or extend any specified deadline for stress testing, reporting, or publication of disclosures of the stress test results.

(2) *Stress tests.* The OCC may require additional stress tests not otherwise required by this part or may require or permit different or additional analytical techniques and methods, different scenarios, or different assumptions, as appropriate for the covered institution to use in meeting the stress test requirements of this part. In addition, the OCC may specify a different as-of date for any or all categories of financial data used by the stress test.

(3) *Reporting and disclosures.* The OCC may modify the reporting date or any reporting requirement of a report required by this part, or may require any additional reports relating to stress testing as may be appropriate. The OCC may delay or otherwise modify the publication requirements of this part if the disclosure of stress test results under this part would not provide sufficiently meaningful or useful information to the public. In addition, the OCC may require different or additional disclosures not otherwise required by this part, if the existing disclosures do not adequately address one or more material elements of the stress test.

(b) *Factors considered.* Any exercise of authority under this section by the OCC will be in writing and will consider the nature and level of the activities, complexity, risks, operations, and regulatory capital of the national bank or Federal savings association, in addition to any other relevant factors.

(c) *Notice and comment procedures.* In making a determination under paragraph (a) of this section, the OCC will apply notice and response procedures, in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.404.

[77 FR 61246, Oct. 9, 2012, as amended at 79 FR 11313, Feb. 28, 2014]

**§ 46.5 Annual stress test.**

Each covered institution must conduct the annual stress test under this

part subject to the following requirements:

(a) *Financial data.* A covered institution must use financial data as of September 30 of that calendar year.

(b) *Scenarios provided by the OCC.* In conducting the stress test under this part, each covered institution must use the scenarios provided by the OCC. The scenarios provided by the OCC will reflect a minimum of three sets of economic and financial conditions, including baseline, adverse, and severely adverse scenarios. The OCC will provide a description of the scenarios required to be used by each covered institution no later than November 15 of that calendar year.

(c) *Significant trading activities.* The OCC may require a covered institution with significant trading activities, as determined by the OCC, to include trading and counterparty components in its adverse and severely adverse scenarios. The trading and counterparty position data to be used in this component will be as of a date between October 1 and December 1 of that calendar year that will be selected by the OCC and communicated to the covered institution no later than December 1 of the calendar year.

(d) *Use of stress test results.* The board of directors and senior management of each covered institution must consider the results of the stress tests conducted under this section in the normal course of business, including but not limited to the covered institution's capital planning, assessment of capital adequacy, and risk management practices.

EFFECTIVE DATE NOTE: At 79 FR 71633, Dec. 3, 2014, § 46.5 was amended by revising paragraphs (a) through (c), effective Jan. 2, 2015. For the convenience of the user, the revised text is set forth as follows:

**§ 46.5 Annual stress test.**

\* \* \* \* \*

(a) *Financial data.* A covered institution must use financial data as of September 30 (for the stress test beginning October 1, 2014) or December 31 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year.

(b) *Scenarios provided by the OCC.* In conducting the stress test under this part, each covered institution must use the scenarios

§ 46.6

12 CFR Ch. I (1–15 Edition)

provided by the OCC. The scenarios provided by the OCC will reflect a minimum of three sets of economic and financial conditions, including baseline, adverse, and severely adverse scenarios. The OCC will provide a description of the scenarios required to be used by each covered institution no later than November 15 (for the stress test beginning October 1, 2014) or February 15 (for the stress test beginning January 1, 2016), and all stress tests thereafter) of that calendar year.

(c) *Significant trading activities.* The OCC may require a covered institution with significant trading activities, as determined by the OCC, to include trading and counterparty components in its adverse and severely adverse scenarios. The trading and counterparty position data to be used in this component will be as of a date between October 1 and December 1 (for the stress test beginning October 1, 2014) or between January 1 and March 1 (for the stress test beginning January 1, 2016), and all stress tests thereafter) of that calendar year that will be selected by the OCC and communicated to the covered institution no later than December 1 (for the stress test beginning October 1, 2014) or March 1 (for the stress test beginning January 1, 2016), and all stress tests thereafter) of the calendar year.

\* \* \* \* \*

§ 46.6 Stress test methodologies and practices.

(a) *Potential impact on capital.* During each quarter of the planning horizon, a covered institution shall estimate the following for each scenario required to be used:

(1) Pre-provision net revenues, losses, loan loss provisions, and net income, and

(2) The potential impact on the covered institution’s regulatory capital levels and ratios applicable to the covered institution under 12 CFR part 3 or part 167, as applicable, and any other capital ratios specified by the OCC, incorporating the effects of any capital actions over the planning horizon and maintenance by the covered institution of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Planning horizon.* A covered institution must use a minimum planning horizon of at least nine quarters, beginning with the first day of the period covered by the stress tests.

(c) *Controls and oversight of stress test processes.* (1) The senior management of

the covered institution must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress test processes used by the covered institution satisfy the requirements in this part. These policies and procedures must, at a minimum, describe the covered institution’s stress test practices and methodologies, and processes for validating and updating the covered institution’s stress test practices and methodologies consistent with applicable laws, regulations, and supervisory guidance.

(2) The board of directors of the covered institution, or a committee thereof, shall approve and review the policies and procedures of the covered institution’s stress testing processes as frequently as economic conditions or the condition of the institution may warrant, but no less than annually. The board of directors and senior management must be provided with a summary of the stress test results.

EFFECTIVE DATE NOTE: At 79 FR 71633, Dec. 3, 2014, § 46.6 was amended by revising paragraph (a)(2), effective Jan. 2, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 46.6 Stress test methodologies and practices.

(a) \* \* \*

(2) The potential impact on the covered institution’s regulatory capital levels and ratios applicable to the covered institution under 12 CFR part 3 or part 167, as applicable, and any other capital ratios specified by the OCC, incorporating the effects of any capital actions over the planning horizon and maintenance by the covered institution of an allowance for loan losses appropriate for credit exposures throughout the planning horizon. Until December 31, 2015, or such other date specified by the OCC, a covered institution is not required to calculate its risk-based capital requirements using the internal ratings-based and advanced measurement approaches as set forth in 12 CFR part 3, subpart E.

\* \* \* \* \*

§ 46.7 Reports to the Office of the Comptroller of the Currency and the Federal Reserve Board.

(a) *\$10 to \$50 billion covered institution.* A \$10 to \$50 billion covered institution must report to the OCC and to the

Board of Governors of the Federal Reserve System, on or before March 31, the results of the stress test in the manner and form specified by the OCC.

(b) *Over \$50 billion covered institution.* An over \$50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before January 5, the results of the stress test in the manner and form specified by the OCC.

(c) *Confidentiality of Reports.* As provided by § 4.32(b) of this title, the report required under this section is non-public OCC information because it is deemed to be a record created or obtained by the OCC in connection with the OCC's performance of its responsibilities, such as a record concerning supervision, licensing, regulations, and examination, of a national bank, a Federal savings association, a bank holding company, a savings and loan holding company, or an affiliate. The report is the property of the OCC and unauthorized disclosure of the report is generally prohibited pursuant to § 4.37 of this part.

EFFECTIVE DATE NOTE: At 79 FR 71633, Dec. 3, 2014, § 46.7 was amended by revising paragraphs (a) and (b), effective Jan. 2, 2015. For the convenience of the user, the revised text is set forth as follows:

**§ 46.7 Reports to the Office of the Comptroller of the Currency and the Federal Reserve Board.**

(a) *\$10 to \$50 billion covered institution.* A \$10 to \$50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before March 31 (for the stress test beginning October 1, 2014) and on or before July 31 (for the stress test beginning January 1, 2016, and all stress tests thereafter), the results of the stress test in the manner and form specified by the OCC.

(b) *Over \$50 billion covered institution.* An over \$50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before January 5 (for the stress test beginning October 1, 2014) and on or before April 5 (for the stress test beginning January 1, 2016, and all stress tests thereafter), the results of the stress test in the manner and form specified by the OCC.

\* \* \* \* \*

**§ 46.8 Publication of disclosures.**

(a) *Publication date.* (1) An over \$50 billion covered institution must publish a summary of the results of its annual stress tests in the period starting March 15 and ending March 31 of the next calendar year.

(2) A \$10 to \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting June 15 and ending June 30 of the next calendar year.

(3) A \$10 to \$50 billion covered institution that is subject to its first annual stress test pursuant to § 46.3(b)(1) of this part must make its initial public disclosure in the period starting June 15 and ending June 30 of 2015 by disclosing the results of a stress test conducted in 2014, using financial statement data as of September 30, 2014.

(b) *Publication method.* The summary required under this section may be published on the covered institution's Web site or in any other forum that is reasonably accessible to the public. A covered institution controlled by a bank holding company that is required to conduct an annual company-run stress test under applicable regulations of the Board of Governors of the Federal Reserve System will be deemed to have satisfied the publication requirement of this section when the bank holding company publicly discloses summary results of its annual stress test in satisfaction of the requirements of applicable regulations of the Board of Governors of the Federal Reserve System, unless the OCC determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the covered institution.

(c) *Information to be disclosed in the summary.* The information disclosed shall, at a minimum, include—

(1) A description of the types of risks included in the stress test under this part;

(2) A summary description of the methodologies used in the stress test;

(3) Estimates of aggregate losses, pre-provision net revenue, provisions for loan and lease losses, net income, and

pro forma capital ratios (including regulatory and any other capital ratios specified by the OCC); and

(4) An explanation of the most significant causes of the changes in regulatory capital ratios.

(d) *Disclosure of estimates for the planning horizon.* (1) The disclosure of the estimates of aggregate losses, pre-provision net revenue, provisions for loan and lease losses, net income, and pro forma capital ratios (including regulatory and any other capital ratios specified by the OCC), as required by paragraph (b) of this section, must reflect the estimated cumulative effects, as well as the estimated capital ratios, at the end of the planning horizon for the severely adverse scenario.

(2) With respect to the capital ratio disclosure required in paragraph (d)(1) of this section, the disclosure must also include the value at the beginning of the planning horizon, and the minimum over the planning horizon of the estimated quarter-end values of each ratio.

EFFECTIVE DATE NOTE: At 79 FR 71634, Dec. 3, 2014, §46.8 was amended by revising paragraphs (a)(1) and (2), effective Jan. 2, 2015. For the convenience of the user, the revised text is set forth as follows:

**§ 46.8 Publication of disclosures.**

(a) *Publication date*—(1) *Over \$50 billion covered institution.* (i) Prior to January 1, 2016, an over \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting March 15 and ending March 31 (for the stress test cycle beginning October 1, 2014).

(ii) Effective January 1, 2016, an over \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting June 15 and ending July 15 (for the stress test cycle beginning January 1, 2016, and for all stress tests thereafter) provided:

(A) Unless the OCC determines otherwise, if the over \$50 billion covered institution is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board of Governors of the Federal Reserve System pursuant to 12 CFR part 252, then within the June 15 to July 15 period such covered institution may not publish the required summary of its annual stress test earlier than the date that the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company.

(B) If the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered institution's parent holding company prior to June 15, then such covered institution may publish its stress test results prior to June 15, but no later than July 15, through actual publication by the covered institution or through publication by the parent holding company pursuant to paragraph (b) of this section.

(2) *\$10 to \$50 billion covered institution.* (i) Prior to January 1, 2016, a \$10 to \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting June 15 and ending June 30 (for the stress test cycle beginning October 1, 2014).

(ii) Effective January 1, 2016, a \$10 to \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting October 15 and ending October 31 (for the stress test cycle beginning January 1, 2016, and for all stress tests thereafter).

\* \* \* \* \*

**PART 47 [RESERVED]**

**PART 48—RETAIL FOREIGN EXCHANGE TRANSACTIONS**

Sec.

- 48.1 Authority, purpose, and scope.
- 48.2 Definitions.
- 48.3 Prohibited transactions.
- 48.4 Supervisory non-objection.
- 48.5 Application and closing out of offsetting long and short positions.
- 48.6 Disclosure.
- 48.7 Recordkeeping.
- 48.8 Capital requirements.
- 48.9 Margin requirements.
- 48.10 Required reporting to customers.
- 48.11 Unlawful representations.
- 48.12 Authorization to trade.
- 48.13 Trading and operational standards.
- 48.14 Supervision.
- 48.15 Notice of transfers.
- 48.16 Customer dispute resolution.
- 48.17 Reservation of authority.

AUTHORITY: 7 U.S.C. 27 *et seq.*; 12 U.S.C. 1 *et seq.*, 24, 93a, 161, 1461 *et seq.*, 1462a, 1463, 1464, 1813(q), 1818, 1831o, 3101 *et seq.*, 3102, 3106a, 3108, and 5412.

SOURCE: 76 FR 41384, July 14, 2011, unless otherwise noted.

**§ 48.1 Authority, purpose, and scope.**

(a) *Authority*—(1) *National banks.* A national bank may offer or enter into retail foreign exchange transactions. A