

administrative costs to 15 percent of a fiscal year's available income. In 2012, the USHBC's administrative costs were 7.46 percent of available income, much lower than the Order's threshold.

No changes have been made to the proposed rule based on these opposing comments.

Other Comments

Two comments were received that did not take a position on the proposed assessment rate increase. One commenter stated that she supports promoting blueberries. Another commenter asked about the amount of funds used for administration versus promotion, hoping that at least 75 percent of the funds are used for promotion, research and information projects. As previously mentioned, section 1218.50(i) limits the funds that the USHBC can spend for administration to 15 percent of available income for the year. In 2012, the USHBC's administrative costs were 7.46 percent of available income, much lower than the Order's threshold. USHBC 2012 actual program expenses were almost 80 percent of its total expenditures.

After consideration of all relevant matters presented, including the information and recommendation submitted by the USHBC and other available information, it is hereby found that this rule, as hereinafter set forth, is consistent with and would effectuate the purposes of the 1996 Act.

List of Subjects in 7 CFR Part 1218

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Blueberry promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Part 1218, Chapter XI of Title 7 is amended as follows:

PART 1218—BLUEBERRY PROMOTION, RESEARCH, AND INFORMATION ORDER

- 1. The authority citation for 7 CFR part 1218 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

- 2. In § 1218.52, paragraph (c) and the first sentence of paragraph (d)(2) are revised to read as follows:

§ 1218.52 Assessments.

* * * * *

(c) Such assessments shall be levied at a rate of \$18 per ton (or \$0.01984 per kg) on all blueberries. The assessment rate will be reviewed, and may be

modified with the approval of the Secretary.

(d) * * *

(2) The import assessment shall be uniformly applied to imported fresh and frozen blueberries that are identified by the numbers 0810.40.0029 and 0811.90.2028, respectively, in the Harmonized Tariff Schedule of the United States or any other numbers used to identify fresh and frozen blueberries. * * *

* * * * *

Dated: September 24, 2013.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2013–23695 Filed 9–27–13; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 225 and 252

[Docket No. R–1463; RIN 7100 AE–01]

Regulations Y and YY: Application of the Revised Capital Framework to the Capital Plan and Stress Test Rules

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Interim final rule with request for comment.

SUMMARY: The Board invites comment on an interim final rule that amends the capital plan and stress test rules to require a bank holding company with total consolidated assets of \$50 billion or more to estimate its tier 1 common ratio using the methodology currently in effect in 2013 under the existing capital guidelines (not the rules as revised on July 2, 2013). The interim final rule also clarifies when a banking organization would estimate its minimum regulatory capital ratios using the advanced approaches for a given capital plan and stress test cycle and makes minor, technical changes to the capital plan rule.

DATES: This rule is effective on September 30, 2013. Comments must be received on or before November 25, 2013.

ADDRESSES: You may submit comments, identified by Docket R–1463 and RIN No. 7100 AE 01, by any of the following methods:

Agency Web site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Email: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

Facsimile: (202) 452–3819 or (202) 452–3102.

Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons.

Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Lisa Ryu, Deputy Associate Director, (202) 263–4833, Constance Horsley, Manager, (202) 452–5239, or Ann McKeehan, Senior Supervisory Financial Analyst, (202) 973–6903, Division of Banking Supervision and Regulation; Laurie Schaffer, Associate General Counsel, (202) 452–2272, Ben McDonough, Senior Counsel, (202) 452–2036, or Christine Graham, Senior Attorney, (202) 452–3005, 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.

SUPPLEMENTARY INFORMATION:

I. Background

On July 2, 2013, the Board approved revised risk-based and leverage capital requirements for banking organizations that implement the Basel III regulatory capital reforms and certain changes required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (revised capital framework).¹ The revised capital framework introduces a new common equity tier 1 capital ratio and supplementary leverage ratio, raises the minimum tier 1 ratio and, for certain banking organizations, leverage ratio, implements strict eligibility criteria for regulatory capital instruments, and

¹ See, *Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule* (July 2, 2013), available at: <http://www.federalreserve.gov/newsevents/press/bcreg/20130702a.htm> (revised capital framework).

introduces a standardized methodology for calculating risk-weighted assets. The new minimum regulatory capital ratios and the eligibility criteria for regulatory capital instruments will begin to take effect as of January 1, 2014, subject to transition provisions, for banking organizations that meet the criteria for the advanced approaches rule (advanced approaches banking organizations).² All other banking organizations must begin to comply with the revised capital framework beginning on January 1, 2015.

As the revised regulatory capital framework comes into effect, banking organizations will be required to reflect the new capital rules in their capital plans submitted under the Board's capital plan rule and in their stress tests conducted under the Board's rules implementing the stress test requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

II. Capital Plan Rule

Pursuant to the Board's capital plan rule and Board's related supervisory process, the Comprehensive Capital Analysis and Review (CCAR), the Board assesses the internal capital planning process of a bank holding company with total consolidated assets of \$50 billion or more (large bank holding company) and its ability to maintain sufficient capital to continue its operations under expected and stressful conditions.³ Under the capital plan rule, a large bank holding company is required to submit an annual capital plan to the Board that contains estimates of its minimum regulatory capital ratios and its *tier 1 common ratio* under expected conditions and under a range of stressed scenarios over a nine-quarter planning horizon (planning horizon).⁴ A capital plan also must include a discussion of how the large bank holding company will maintain a pro forma tier 1 common ratio above 5 percent under expected conditions and stressed scenarios.⁵

The tier 1 common ratio is a measure that the Federal Reserve has used for supervisory purposes during and after the financial crisis, including CCAR—it is not a minimum capital requirement.⁶ The capital plan rule defines the tier 1

common ratio as the ratio of a bank holding company's tier 1 common capital to its total risk-weighted assets. Tier 1 common capital is defined as tier 1 capital less non-common elements in tier 1 capital, including perpetual preferred stock and related surplus, minority interest in subsidiaries, trust preferred securities and mandatory convertible preferred securities.⁷ The 5 percent threshold reflected a supervisory assessment of the minimum capital needed to provide a high level of confidence that a BHC can continue to be a going concern throughout stressful conditions and on a post-stress basis, based on an analysis of the historical distribution of earnings by large banking organizations.⁸

The preamble to the capital plan rule noted that the Basel III framework proposed by the Basel Committee on Bank Supervision includes a different definition of tier 1 common capital and that the Board and the other federal banking agencies continued to work on implementing Basel III in the United States.⁹ The capital plan rule's definition of "tier 1 common ratio" states that the definition will remain in effect until the Board adopts an alternative tier 1 common ratio definition as a minimum regulatory capital ratio.¹⁰

III. Stress Test Rules

The Board's stress test rules for large bank holding companies and nonbank financial companies supervised by the Board establish a framework for the Board to conduct annual supervisory stress tests to evaluate whether these companies have the capital necessary to absorb losses as a result of adverse economic conditions and require these companies to conduct semi-annual company-run stress tests.¹¹ Under the supervisory stress tests, the Board uses data as of September 30 of each year to assess a covered company's capital levels and regulatory capital ratios and its tier 1 common ratio, over the nine-quarter planning horizon of a given stress test cycle.¹² Similarly, the annual and semi-annual stress tests conducted by a covered company require it to report, among other elements, its

regulatory capital ratios, including its tier 1 common ratio, for each quarter of a nine-quarter planning horizon.¹³ The stress test rule defines the tier 1 common ratio by cross-reference to the capital plan rule, which, as previously described, provides that the tier 1 common ratio is to remain in effect until the Board adopts an alternative tier 1 common ratio definition.¹⁴

IV. Incorporating the Revised Capital Framework Into Capital Plan and Stress Tests

Because the revised capital framework introduces a methodology for computing a common equity tier 1 capital ratio and a new minimum common equity tier 1 capital ratio, it is necessary to clarify how bank holding companies should calculate their tier 1 common ratio for the upcoming capital plan and stress test cycle.

With respect to a bank holding company's estimates of its regulatory capital ratios and the applicable minimum capital requirements, the bank holding company must project its regulatory capital ratios and meet the minimum capital requirements for each quarter of the planning horizon in accordance with the minimum capital requirements that are in effect during that quarter. Accordingly, under the revised capital framework, a bank holding company that is an advanced approaches banking organization would be required to calculate its common equity tier 1 capital ratio beginning in 2014, in accordance with the transition period arrangements, and meet a 4.0 percent minimum in 2014 and a 4.5 percent minimum in 2015. A bank holding company that is not advanced approaches banking organizations would be required to calculate its common equity tier 1 capital ratio beginning in 2015, in accordance with the transition period arrangements, and meet a 4.5 percent minimum in 2015. A state member bank that is a subsidiary of a bank holding company with total consolidated assets of \$50 billion or more will reflect the new capital rules in the same manner as its bank holding company parent in projecting its capital for the upcoming stress test cycle.

With respect to a bank holding company's estimates of the tier 1 common ratio, the bank holding company must use the definitions of tier 1 capital and total risk-weighted assets currently in effect in 2013 under the existing capital guidelines for each quarter of the planning horizon, and not incorporate the new definition of

² A banking organization is subject to the advanced approaches rule if it has consolidated assets greater than or equal to \$250 billion, if it has total consolidated on-balance sheet foreign exposures of at least \$10 billion, or if it elects to apply the advanced approaches rule.

³ 76 FR 74631 (Dec. 1, 2011) (codified at 12 CFR 225.8) (capital plan rule).

⁴ See generally 12 CFR 225.8.

⁵ *Id.* at § 225.8(d)(2)(i)(B).

⁶ 76 FR 74631, 74636 (December 1, 2011).

⁸ Basel Committee on Banking Supervision, *Calibrating regulatory minimum capital requirements and capital buffers: A top-down approach* (October 2010), available at <http://www.bis.org/publ/bcbs180.htm>.

⁹ 76 FR 74631, 74637 (December 1, 2011).

¹⁰ *Id.* at § 225.8(c)(9).

¹¹ 77 FR 62378 (Oct. 12, 2012) (codified at 12 CFR part 252, subparts F and G). The changes in this interim final rule will apply to nonbank financial companies supervised by the Board after they become subject to stress test requirements.

¹² 12 CFR 252.134(a).

¹³ *Id.* at 252.146(a).

¹⁴ *Id.* at 252.132(q), 252.142(t).

common equity tier 1 that is part of the revised capital framework that will become effective in 2014 and 2015. Preserving the tier 1 common ratio methodology maintains consistency with previous capital plan cycles during the phase-in of the new common equity tier 1 capital minimum requirement. Moreover, the new minimum common equity tier 1 capital ratio will be phased in over several years. Using the new methodology with the lower first year phase-in minimum ratio for the capital plan and stress test cycle that begins October 1, 2013, would likely result in large bank holding companies being subject to a common equity capital

standard in the first quarters of the planning horizon that is less stringent than the standard used in previous capital plan and stress test cycles. Once the new minimum common equity tier 1 capital ratio reaches its permanent level of 4.5 percent in 2015, the Board expects that the combination of changes in the methodology for computing the common equity tier 1 ratio and the minimum level of 4.5 percent will be more stringent than the current capital plan tier 1 common ratio of 5.0 percent. Under the new common equity tier 1 capital definition, most elements of accumulated other comprehensive income (AOCI), such as gains and losses

on available-for-sale debt securities, will flow through to common equity, except in the case of non-advanced approaches banking organizations that make an AOCI opt-out election.¹⁵ In addition, more assets will be subject to deduction, including investments in unconsolidated financial institutions and all deferred tax assets that arise from operating losses and tax credit carry forwards.

Table 1 illustrates the minimum common equity capital ratios to which large bank holding companies will be subject in the capital plan and stress test cycles that begin October 1, 2013.

TABLE 1—COMMON EQUITY RATIOS APPLICABLE TO LARGE BANK HOLDING COMPANIES IN THE CAPITAL PLAN AND STRESS TEST CYCLES THAT BEGIN OCTOBER 1, 2013

	Q4 2013	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015	Q4 2015
Advanced approaches bank holding companies.	Current T1C ratio of 5.0%.	Current T1C ratio of 5.0%. CET1 ratio of 4.0%.	Current T1C ratio of 5.0%. CET1 ratio of 4.0%.	Current T1C ratio of 5.0%. CET1 ratio of 4.0%.	Current T1C ratio of 5.0%. CET1 ratio of 4.0%.	Current T1C ratio of 5.0%. CET1 ratio of 4.5%.	Current T1C ratio of 5.0%. CET1 ratio of 4.5%.	Current T1C ratio of 5.0%. CET1 ratio of 4.5%.	Current T1C ratio of 5.0%. CET1 ratio of 4.5%.
Non-advanced approaches bank holding companies.	Current T1C ratio of 5.0%.	Current T1C ratio of 5.0%.	Current T1C ratio of 5.0%.	Current T1C ratio of 5.0%.	Current T1C ratio of 5.0%.	Current T1C ratio of 5.0%. CET1 ratio of 4.5%.	Current T1C ratio of 5.0%. CET1 ratio of 4.5%.	Current T1C ratio of 5.0%. CET1 ratio of 4.5%.	Current T1C ratio of 5.0%. CET1 ratio of 4.5%.

Current T1C ratio: the ratio of a bank holding company's tier 1 common capital calculated using the definitions in place as of the effective date of the interim final rule (i.e., tier 1 capital as defined under Appendix A of 12 CFR part 225, less the non-common elements of tier 1 capital, over total risk-weighted assets as defined under Appendices A, E, and G of 12 CFR part 225).

CET1 ratio: a bank holding company's common equity tier 1 capital ratio as calculated under 12 CFR part 217, including the transition provisions of 12 CFR part § 217.300, as applicable within each quarter of the capital plan and stress test cycles that begin October 1, 2013.

V. Parallel Run Notification Date

In light of the issuance of the revised capital framework, the Board is also providing clarity on when a banking organization would be required to estimate its minimum regulatory capital ratios over the planning horizon using the advanced approaches for a given capital planning and stress testing cycle.

A bank holding company that is an advanced approaches banking organization is required to use the advanced approaches to calculate its minimum regulatory capital ratios if it has conducted a satisfactory parallel run, which is defined as a period of no less than four consecutive calendar quarters during which a banking organization complies with certain qualification requirements of the advanced approaches.¹⁶ Currently, all advanced approaches banking organizations are in parallel run, but it is possible that firms could complete a satisfactory parallel run in the near term and, as a result, be required to calculate their regulatory capital ratios using the advanced approaches Under the current capital plan rule and stress test rule, an

advanced approaches banking organization would be required to estimate its capital ratios over the planning horizon using the advanced approaches if the firm is notified any time before January 5, which is the date on which a banking organization must submit its capital plan and its stress test results to the Board.

In order to provide additional notice to an advanced approaches banking organization regarding when it must begin to estimate its advanced approaches regulatory capital ratios under stressed conditions in a given capital plan or stress test cycle, the interim final rule provides that a bank holding company must be notified that it has completed its parallel run by September 30 of a given year in order to be required to estimate its capital ratios using the advanced approaches for the capital plan or stress test cycle that begins on October 1 of that year.

VI. Technical Changes

The interim final rule makes minor technical changes to the capital plan rule. It clarifies that a covered company that has not filed the FR Y-9C report for

the four most recent consecutive quarters will calculate its total consolidated assets as reported on the company's available FR Y-9C reports for the most recent quarter or consecutive quarters. It clarifies that the Board (or the Reserve Bank, with concurrence of the Board) may extend the resubmission period for a capital plan beyond an initial 60 day extension if the Board or Reserve Bank determines that such longer period is appropriate.

The interim final rule modifies the capital plan rule to reflect the Board's current practice of publicly disclosing its decision to object or not object to a bank holding company's capital plan along with a summary of the Board's analyses of that company. The rule provides that any disclosure will occur by March 31 of each calendar year, unless the Board determines that another date is appropriate. With regard to the Board's review of bank holding companies' capital plans, the Board expects the summary results largely will be similar to the results disclosed in previous CCAR exercises, unless the Board determines that different or

¹⁵ See Revised capital framework, § __.22(b)(2).

¹⁶ 12 CFR part 225, Appendix G, section 21(c).

additional disclosures would be appropriate.

The interim final rule also corrects a typographical numbering error and removes the clarification of the start of the stress test cycle for the stress test cycle that began in 2012.

VII. Effective Date; Solicitation of Comments

This interim final rule is effective September 30, 2013. Pursuant to the Administrative Procedure Act (APA), at 5 U.S.C. 553(b)(B), notice and comment are not required prior to the issuance of a final rule if an agency, for good cause, finds that “notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹⁷ Similarly, a final rule may be published with an immediate effective date if an agency finds good cause and publishes such with the final rule.¹⁸

Consistent with section 553(b)(B) of the APA, the Board finds that issuing this rule as an interim final rule is necessary to clarify how a large bank holding company must incorporate the revised capital framework adopted July 2, 2013, into its capital plan and stress tests for purposes of the capital plan and stress test cycles that begin October 1, 2013. This interim final rule also clarifies when a bank holding company would be required to calculate its minimum regulatory capital ratios using the advanced approaches for a given capital plan and stress testing cycle. Obtaining notice and comment prior to issuing the interim final rule would be impracticable and contrary to the public interest. The capital rules were only recently revised and the short effective date of those revisions provide good cause to publish the interim final rule with an immediate effective date in order to remove uncertainty about the standards in the capital plan rule and reduce the burden of requiring firms to change their capital calculations in advance of the effective date.

The approval by the Board of the revised capital framework in July, 2013, prompted a need to clarify how a large bank holding company would incorporate these rules into its capital plan and stress tests for the capital plan and stress test cycles that begin October 1, 2013. In addition, the definition of “tier 1 common ratio” used in the capital plan rule, and incorporated by cross reference in the stress test rules, stated that the definition would remain in effect until the Board had adopted an alternative tier 1 common ratio definition as a minimum regulatory

capital ratio.¹⁹ The approach taken in the interim final rule is consistent with the Board’s previous interpretations of the capital plan and stress test rules.²⁰ It also ensures that the tier 1 common ratio is no less stringent than the ratio used in previous cycles.

In addition, the interim final rule provides that a bank holding company must be notified that it has completed its parallel run by September 30 of a given year in order to be required to estimate its capital ratios using the advanced approaches for that year’s capital plan or stress test cycle. This change provides clearer notice to an advanced approaches banking organization so that it could anticipate when it will be required to calculate its regulatory capital ratios using the advanced approaches in a given capital plan or stress test cycle.

Moreover, the interim final rule should not impose any incremental burden on these firms. The interim final rule relieves burden on them by clarifying the process for their upcoming capital plan submissions and company-run stress tests and providing additional time to build systems and processes necessary to effectively implement in a stress test the regulatory capital requirements of the advanced approaches rules.

Although notice and comment are not required prior to the effective date of this interim final rule, the Board invites comment on all aspects of this rulemaking and will revise this interim final rule if necessary or appropriate in light of the comments received. The Board is seeking comments on all aspects of the interim final rule. In particular:

Question 1. What, if any, additional transitional arrangements should the Board consider for future capital plan and stress test cycles? Should the Board remove the capital plan’s tier 1 common ratio of 5.0 percent, or conversely, maintain the tier 1 common ratio of 5.0 percent, but require bank holding companies to calculate the ratio using the more stringent definition of capital?

Question 2. What, if any, modifications should be made to the advanced approaches notification date to better facilitate the timely notification of advanced approaches banking organizations of their need to use the advanced approaches in estimating their regulatory capital ratios for the capital plan and stress test purposes?

¹⁹ *Id.* at § 225.8(c)(9).

²⁰ See Federal Reserve System Comprehensive Capital Analysis and Review: Summary Instructions and Guidance (November 22, 2011), available at: <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20111122d1.pdf>.

VIII. Regulatory Analysis

A. Regulatory Flexibility Act Analysis

The Board has considered the potential impact of the interim final rule on small companies in accordance with the Regulatory Flexibility Act (5 U.S.C. 603(b)). Based on its analysis and for the reasons stated below, the Board believes that the interim final rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing a regulatory flexibility analysis.

For the reason discussed in the Supplementary Information above, the agencies are issuing this interim final rule to clarify the requirements for certain companies required to submit capital plans to the Board on January 5, 2014, and conduct Dodd-Frank Act company run stress tests in the stress test cycle that commences on October 1, 2013. Under regulations issued by the Small Business Administration (“SBA”), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$500 million or less (a small banking organization). The interim final rule would apply to bank holding companies with total consolidated asset of \$50 billion or more and nonbank financial companies supervised by the Board. Companies that would be subject to the interim final rule therefore substantially exceed the \$500 million total asset threshold at which a company is considered a small company under SBA regulations. In light of the foregoing, the Board does not believe that the interim final rule would have a significant economic impact on a substantial number of small entities.

B. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act required the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board invites comment on how to make this interim final rule easier to understand. For example:

- Has the Board organized the material to suit your needs? If not, how could the rule be more clearly stated?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation

¹⁷ 5 U.S.C. 553(b)(B).

¹⁸

easier to understand? If so, what changes would make the regulation easier to understand?

- Would more, but shorter, sections be better? If so, which sections should be changed?

- What else could the Board do to make the regulation easier to understand?

C. Paperwork Reduction Act

This interim final rule references currently approved collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520) provided for in the capital plan rules. This interim final rule does not introduce any new collections of information nor does it substantively modify the collections of information that Office of Management and Budget (OMB) has approved. Therefore, no Paperwork Reduction Act submissions to OMB are required.

List of Subjects

12 CFR Part 225

Administrative practice and procedure; Banks, banking; Capital Planning; Holding companies; Reporting and recordkeeping requirements; Securities, Stress Testing.

12 CFR Part 252

Administrative practice and procedure, Banks, Banking, Capital Planning; Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, Stress Testing.

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 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

Subpart A—General Provisions

■ 2. Revise § 225.8 to read as follows:

§ 225.8 Capital planning.

(a) *Purpose.* This section establishes capital planning and prior notice and approval requirements for capital distributions by certain bank holding companies.

(b) *Scope and effective date.* (1) This section applies to every top-tier bank holding company domiciled in the United States:

(i) With average total consolidated assets of \$50 billion or more. Average total consolidated assets means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average; or

(ii) That is subject to this section, in whole or in part, by order of the Board based on the institution's size, level of complexity, risk profile, scope of operations, or financial condition.

(2) Beginning on December 23, 2011, the provisions of this section shall apply to any bank holding company that is subject to this section pursuant to paragraph (b)(1), provided that:

(i) Until July 21, 2015, this section will not apply to any bank holding company subsidiary of a foreign banking organization that is currently relying on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010, available at <http://www.federalreserve.gov/boarddocs/srletters/2001/sr0101.htm>); and

(ii) A bank holding company that becomes subject to this section pursuant to paragraph (b)(1)(i) after the 5th of January of a calendar year shall not be subject to the requirements of paragraphs (d)(1)(ii), (d)(4), and (f)(1)(iii) of this section until January 1 of the next calendar year.

(3) Notwithstanding any other requirement in this section, for a given capital plan cycle (including the January 5 submission of a capital plan under paragraph (d)(1) of this section and any resubmission of the capital plan under paragraph (d)(4) of this section during the capital plan cycle), a bank holding company's estimates of its pro forma regulatory capital ratios and its pro forma tier 1 common ratio over the planning horizon shall not include estimates using the advanced approaches if the bank holding company is notified on or after the first day of that capital plan cycle (October 1) that the bank holding company is

required to calculate its risk-based capital requirements using the advanced approaches.

(4) Nothing in this section shall limit the authority of the Federal Reserve to issue a capital directive or take any other supervisory or enforcement action, including action to address unsafe or unsound practices or conditions or violations of law.

(c) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 225, appendix G, and 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(2) *Capital action* means any issuance of a debt or equity capital instrument, any capital distribution, and any similar action that the Federal Reserve determines could impact a bank holding company's consolidated capital.

(3) *Capital distribution* means a redemption or repurchase of any debt or equity capital instrument, a payment of common or preferred stock dividends, a payment that may be temporarily or permanently suspended by the issuer on any instrument that is eligible for inclusion in the numerator of any minimum regulatory capital ratio, and any similar transaction that the Federal Reserve determines to be in substance a distribution of capital.

(4) *Capital plan* means a written presentation of a bank holding company's capital planning strategies and capital adequacy process that includes the mandatory elements set forth in paragraph (d)(2) of this section.

(5) *Capital plan cycle* means the period beginning on October 1 of a calendar year and ending on September 30 of the following calendar year.

(6) *Capital policy* means a bank holding company's written assessment of the principles and guidelines used for capital planning, capital issuance, usage and distributions, including internal capital goals; the quantitative or qualitative guidelines for dividend and stock repurchases; the strategies for addressing potential capital shortfalls; and the internal governance procedures around capital policy principles and guidelines.

(7) *Minimum regulatory capital ratio* means any minimum regulatory capital ratio that the Federal Reserve may require of a bank holding company, by regulation or order, including, as applicable, the bank holding company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, E, and G to this part (12 CFR part 225) and

12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(8) *Planning horizon* means the period of at least nine quarters, beginning with the quarter preceding the quarter in which the bank holding company submits its capital plan, over which the relevant projections extend.

(9) *Tier 1 capital* has the same meaning as under appendix A to this part or under 12 CFR part 217, as applicable, or any successor regulation.

(10) *Tier 1 common capital* means tier 1 capital as defined under appendix A to this part less the non-common elements of tier 1 capital, including perpetual preferred stock and related surplus, minority interest in subsidiaries, trust preferred securities and mandatory convertible preferred securities.

(11) *Tier 1 common ratio* means the ratio of a bank holding company's tier 1 common capital to total risk-weighted assets as defined under appendices A and E to this part.

(d) *General requirements*—(1) *Annual capital planning*. (i) A bank holding company must develop and maintain a capital plan.

(ii) A bank holding company must submit its complete capital plan to the appropriate Reserve Bank and the Board each year by the 5th of January, or such later date as directed by the Board or the appropriate Reserve Bank, with concurrence of the Board.

(iii) The bank holding company's board of directors or a designated committee thereof must at least annually and prior to submission of the capital plan under paragraph (d)(1)(ii) of this section:

(A) Review the robustness of the bank holding company's process for assessing capital adequacy,

(B) Ensure that any deficiencies in the bank holding company's process for assessing capital adequacy are appropriately remedied; and

(C) Approve the bank holding company's capital plan.

(2) *Mandatory elements of capital plan*. A capital plan must contain at least the following elements:

(i) An assessment of the expected uses and sources of capital over the planning horizon that reflects the bank holding company's size, complexity, risk profile, and scope of operations, assuming both expected and stressful conditions, including:

(A) Estimates of projected revenues, losses, reserves, and pro forma capital levels, including any minimum regulatory capital ratios (for example, leverage, tier 1 risk-based, and total risk-

based capital ratios) and any additional capital measures deemed relevant by the bank holding company, over the planning horizon under expected conditions and under a range of stressed scenarios, including any scenarios provided by the Federal Reserve and at least one stressed scenario developed by the bank holding company appropriate to its business model and portfolios;

(B) A calculation of the pro forma tier 1 common ratio over the planning horizon under expected conditions and under a range of stressed scenarios and discussion of how the company will maintain a pro forma tier 1 common ratio above 5 percent under expected conditions and the stressed scenarios required under paragraphs (d)(2)(i)(A) and (ii) of this section;

(C) A discussion of the results of any stress test required by law or regulation, and an explanation of how the capital plan takes these results into account; and

(D) A description of all planned capital actions over the planning horizon.

(ii) A detailed description of the bank holding company's process for assessing capital adequacy, including:

(A) A discussion of how the bank holding company will, under expected and stressful conditions, maintain capital commensurate with its risks, maintain capital above the minimum regulatory capital ratios and above a tier 1 common ratio of 5 percent, and serve as a source of strength to its subsidiary depository institutions;

(B) A discussion of how the bank holding company will, under expected and stressful conditions, maintain sufficient capital to continue its operations by maintaining ready access to funding, meeting its obligations to creditors and other counterparties, and continuing to serve as a credit intermediary;

(iii) The bank holding company's capital policy; and

(iv) A discussion of any expected changes to the bank holding company's business plan that are likely to have a material impact on the firm's capital adequacy or liquidity.

(3) *Data collection*. Upon the request of the Board or appropriate Reserve Bank, the bank holding company shall provide the Federal Reserve with information regarding—

(i) The bank holding company's financial condition, including its capital;

(ii) The bank holding company's structure;

(iii) Amount and risk characteristics of the bank holding company's on- and off-balance sheet exposures, including

exposures within the bank holding company's trading account, other trading-related exposures (such as counterparty-credit risk exposures) or other items sensitive to changes in market factors, including, as appropriate, information about the sensitivity of positions to changes in market rates and prices;

(iv) The bank holding company's relevant policies and procedures, including risk management policies and procedures;

(v) The bank holding company's liquidity profile and management; and

(vi) Any other relevant qualitative or quantitative information requested by the Board or the appropriate Reserve Bank to facilitate review of the bank holding company's capital plan under this section.

(4) *Re-submission of a capital plan*. (i) A bank holding company must update and re-submit its capital plan to the appropriate Reserve Bank within 30 calendar days of the occurrence of one of the following events:

(A) The bank holding company determines there has been or will be a material change in the bank holding company's risk profile, financial condition, or corporate structure since the bank holding company adopted the capital plan;

(B) The Board or the appropriate Reserve Bank objects to the capital plan; or

(C) The Board or the appropriate Reserve Bank, with concurrence of the Board, directs the bank holding company in writing to revise and resubmit its capital plan for any of the following reasons:

(1) The capital plan is incomplete or the capital plan, or the bank holding company's internal capital adequacy process, contains material weaknesses;

(2) There has been or will likely be a material change in the bank holding company's risk profile (including a material change in its business strategy or any risk exposure), financial condition, or corporate structure;

(3) The stressed scenario(s) developed by the bank holding company is not appropriate to its business model and portfolios, or changes in financial markets or the macro-economic outlook that could have a material impact on a bank holding company's risk profile and financial condition require the use of updated scenarios; or

(4) The capital plan or the condition of the bank holding company raise any of the issues described in paragraph (e)(2)(ii) of this section.

(ii) The Board or the appropriate Reserve Bank, with concurrence of the Board, may, at its discretion, extend the

30-day period in paragraph (d)(4)(i) of this section for up to an additional 60 calendar days, or such longer period as the Board or the appropriate Reserve Bank, with concurrence of the Board, determines appropriate.

(iii) Any updated capital plan must satisfy all the requirements of this section; however, a bank holding company may continue to rely on information submitted as part of a previously submitted capital plan to the extent that the information remains accurate and appropriate.

(e) *Review of capital plans by the Federal Reserve; publication of summary results*—(1) *Considerations and inputs.* (i) The Board or the appropriate Reserve Bank, with concurrence of the Board, will consider the following factors in reviewing a bank holding company's capital plan:

(A) The comprehensiveness of the capital plan, including the extent to which the analysis underlying the capital plan captures and addresses potential risks stemming from activities across the firm and the company's capital policy;

(B) The reasonableness of the bank holding company's assumptions and analysis underlying the capital plan and its methodologies for reviewing the robustness of its capital adequacy process; and

(C) The bank holding company's ability to maintain capital above each minimum regulatory capital ratio and above a tier 1 common ratio of 5 percent on a pro forma basis under expected and stressful conditions throughout the planning horizon, including but not limited to any stressed scenarios required under paragraph (d)(2)(i)(A) and (ii) of this section.

(ii) The Board or the appropriate Reserve Bank, with concurrence of the Board, will also consider the following information in reviewing a bank holding company's capital plan:

(A) Relevant supervisory information about the bank holding company and its subsidiaries;

(B) The bank holding company's regulatory and financial reports, as well as supporting data that would allow for an analysis of the bank holding company's loss, revenue, and reserve projections;

(C) As applicable, the Federal Reserve's own pro forma estimates of the firm's potential losses, revenues, reserves, and resulting capital adequacy under expected and stressful conditions, including but not limited to any stressed scenarios required under paragraph (d)(2)(i)(A) and (ii) of this section, as well as the results of any stress tests

conducted by the bank holding company or the Federal Reserve; and

(D) Other information requested or required by the appropriate Reserve Bank or the Board, as well as any other information relevant, or related, to the bank holding company's capital adequacy.

(2) *Federal Reserve action on a capital plan.* (i) The Board or the appropriate Reserve Bank, with concurrence of the Board, will object, in whole or in part, to the capital plan or provide the bank holding company with a notice of non-objection to the capital plan:

(A) By March 31 of the calendar year in which a capital plan was submitted pursuant to paragraph (d)(1)(ii) of this section, and

(B) By the date that is 75 calendar days after the date on which a capital plan was resubmitted pursuant to paragraph (d)(4) of this section.

(ii) The Board or the appropriate Reserve Bank, with concurrence of the Board, may object to a capital plan if it determines that:

(A) The bank holding company has material unresolved supervisory issues, including but not limited to issues associated with its capital adequacy process;

(B) The assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate;

(C) The bank holding company has not demonstrated an ability to maintain capital above each minimum regulatory capital ratio and above a tier 1 common ratio of 5 percent, on a pro forma basis under expected and stressful conditions throughout the planning horizon; or

(D) The bank holding company's capital planning process or proposed capital distributions otherwise constitute an unsafe or unsound practice, or would violate any law, regulation, Board order, directive, or any condition imposed by, or written agreement with, the Board. In determining whether a capital plan or any proposed capital distribution would constitute an unsafe or unsound practice, the appropriate Reserve Bank would consider whether the bank holding company is and would remain in sound financial condition after giving effect to the capital plan and all proposed capital distributions.

(iii) The Board or the appropriate Reserve Bank, with concurrence of the Board, will notify the bank holding company in writing of the reasons for a decision to object to a capital plan.

(iv) If the Board or the appropriate Reserve Bank, with concurrence of the Board, objects to a capital plan and until such time as the Board or the appropriate Reserve Bank, with concurrence of the Board, issues a non-objection to the bank holding company's capital plan, the bank holding company may not make any capital distribution, other than those capital distributions with respect to which the Board or the appropriate Reserve Bank has indicated in writing its non-objection.

(v) The Board may disclose publicly its decision to object or not object to a bank holding company's capital plan under this section, along with a summary of the Board's analyses of that company. Any disclosure under this paragraph (e)(2)(v) will occur by March 31, unless the Board determines that a later disclosure date is appropriate.

(3) *Request for reconsideration or hearing.* Within 10 calendar days of receipt of a notice of objection to a capital plan by the Board or the appropriate Reserve Bank:

(i) A bank holding company may submit a written request to the Board requesting reconsideration of the objection, including an explanation of why reconsideration should be granted. Within 10 calendar days of receipt of the bank holding company's request, the Board will notify the company of its decision to affirm or withdraw the objection to the bank holding company's capital plan or a specific capital distribution; or

(ii) As an alternative to paragraph (e)(3)(i) of this section, a bank holding company may submit a written request to the Board for a hearing. Any hearing shall follow the procedures described in paragraph (f)(5)(ii) through (iii) of this section.

(f) *Approval requirements for certain capital actions*—(1) *Circumstances requiring approval.* Notwithstanding a notice of non-objection under paragraph (e)(2)(i) of this section a bank holding company may not make a capital distribution under the following circumstances, unless it receives approval from the Board or appropriate Reserve Bank pursuant to paragraph (f)(4) of this section:

(i) After giving effect to the capital distribution, the bank holding company would not meet a minimum regulatory capital ratio or a tier 1 common ratio of at least 5 percent;

(ii) The Board or the appropriate Reserve Bank, with concurrence of the Board, notifies the company in writing that the Federal Reserve has determined that the capital distribution would result in a material adverse change to the organization's capital or liquidity

structure or that the company's earnings were materially underperforming projections;

(iii) Except as provided in paragraph (f)(2) of this section, the dollar amount of the capital distribution will exceed the amount described in the capital plan for which a non-objection was issued under this section; or

(iv) The capital distribution would occur after the occurrence of an event requiring resubmission under paragraphs (d)(4)(i)(A) and (C) of this section and before the Federal Reserve acted on the resubmitted capital plan.

(2) *Exception for well capitalized bank holding companies.* (i) A bank holding company may make a capital distribution for which the dollar amount exceeds the amount described in the capital plan for which a non-objection was issued under this section if the following conditions are satisfied:

(A) The bank holding company is, and after the capital distribution would remain, well capitalized as defined in § 225.2(r) of Regulation Y (12 CFR 225.2(r));

(B) The bank holding company's performance and capital levels are, and after the capital distribution would remain, consistent with its projections under expected conditions as set forth in its capital plan under this paragraph (d)(2)(i);

(C) The annual aggregate dollar amount of all capital distributions (beginning on April 1 of a calendar year and ending on March 31 of the following calendar year) would not exceed the total amounts described in the company's capital plan for which the bank holding company received a notice of non-objection by more than 1.00 percent multiplied by the bank holding company's tier 1 capital, as reported to the Federal Reserve on the bank holding company's first quarter FR Y-9C;

(D) The bank holding company provides the appropriate Reserve Bank with notice 15 calendar days prior to a capital distribution that includes the elements described in paragraph (f)(3) of this section; and

(E) The Board or the appropriate Reserve Bank, with concurrence of the Board, does not object to the transaction proposed in the notice. In determining whether to object to the proposed transaction, the Board or the appropriate Reserve Bank, with concurrence of the Board, shall apply the criteria described in paragraph (f)(4)(iv) of this section.

(ii) The exception in this paragraph (f)(2) shall not apply if the Board or the appropriate Reserve Bank notifies the bank holding company in writing that it

may not take advantage of this exception.

(3) *Contents of request.* (i) A request for a capital distribution under this section shall be filed with the appropriate Reserve Bank and the Board and shall contain the following information:

(A) The bank holding company's current capital plan or an attestation that there have been no changes to the capital plan since it was last submitted to the Federal Reserve;

(B) The purpose of the transaction;

(C) A description of the capital distribution, including for redemptions or repurchases of securities, the gross consideration to be paid and the terms and sources of funding for the transaction, and for dividends, the amount of the dividend(s); and

(D) Any additional information requested by the Board or the appropriate Reserve Bank (which may include, among other things, an assessment of the bank holding company's capital adequacy under a revised stress scenario provided by the Federal Reserve, a revised capital plan, and supporting data).

(ii) Any request submitted with respect to a capital distribution described in paragraph (f)(1)(i) of this section shall also include a plan for restoring the bank holding company's capital to an amount above a minimum level within 30 days and a rationale for why the capital distribution would be appropriate.

(4) *Approval of certain capital distributions.* (i) A bank holding company must obtain approval from the Board or the appropriate Reserve Bank, with concurrence of the Board, before making a capital distribution described in paragraph (f)(1) of this section.

(ii) A request for a capital distribution under this section must be filed with the appropriate Reserve Bank and contain all the information set forth in paragraph (f)(3) of this section.

(iii) The Board or the appropriate Reserve Bank, with concurrence of the Board, will act on a request under this paragraph (f)(4) within 30 calendar days after the receipt of a complete request under paragraph (f)(4)(ii) of this section. The Board or the appropriate Reserve Bank may, at any time, request additional information that it believes is necessary for its decision.

(iv) In acting on a request under this paragraph, the Board or appropriate Reserve Bank will apply the considerations and principles in paragraph (e) of this section. In addition, the Board or the appropriate Reserve Bank may disapprove the transaction if the bank holding company

does not provide all of the information required to be submitted under paragraphs (f)(3) and (f)(5)(iii) of this section.

(5) *Disapproval and hearing.* (i) The Board or the appropriate Reserve Bank will notify the bank holding company in writing of the reasons for a decision to disapprove any proposed capital distribution. Within 10 calendar days after receipt of a disapproval by the Board, the bank holding company may submit a written request for a hearing.

(ii) The Board will order a hearing within 10 calendar days of receipt of the request if it finds that material facts are in dispute, or if it otherwise appears appropriate. Any hearing conducted under this paragraph shall be held in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR part 263).

(iii) At the conclusion of the hearing, the Board will by order approve or disapprove the proposed capital distribution on the basis of the record of the hearing.

PART 252—ENHANCED PRUDENTIAL STANDARDS (Regulation YY).

■ 3. The authority citation for part 252 continues to read as follows:

Authority: 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p-1, 1844(b), 1844(c), 5361, 5365, 5366.

■ 4. Subpart F to part 252 is revised to read as follows:

Subpart F—Supervisory Stress Test Requirements for Covered Companies

Sec.	Authority and purpose.
252.131	Definitions.
252.133	Applicability
252.134	Annual analysis conducted by the Board.
252.135	Data and information required to be submitted in support of the Board's analyses.
252.136	Review of the Board's analysis; publication of summary results.
252.137	Use requirement.

§ 252.131 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p-1, 1844(b), 1844(c), 5361, 5365, 5366.

(b) *Purpose.* This subpart implements section 165(i)(1) of the Dodd-Frank Act (12 U.S.C. 5365(i)(1)), which requires the Board to conduct annual analyses of nonbank financial companies supervised by the Board and bank holding companies with \$50 billion or more in total consolidated assets to evaluate whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.

§ 252.132 Definitions.

For purposes of this subpart F, the following definitions apply:

(a) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 225, appendix G, and 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(b) *Adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y-9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y-9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y-9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y-9C used in the calculation of the average.

(d) *Bank holding company* has the same meaning as in § 225.2(c) of the Board's Regulation Y (12 CFR 225.2(c)).

(e) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

(f) *Covered company* means:

(1) A bank holding company (other than a foreign banking organization) with average total consolidated assets of \$50 billion or more; and

(2) A nonbank financial company supervised by the Board.

(g) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(h) *Foreign banking organization* has the same meaning as in § 211.21(o) of the Board's Regulation K (12 CFR 211.21(o)).

(i) *Nonbank financial company supervised by the Board* means a nonbank financial company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(j) *Planning horizon* means the period of at least nine quarters, beginning on the first day of a stress test cycle (on October 1) over which the relevant projections extend.

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

(l) *Provision for loan and lease losses* means the provision for loan and lease losses as reported by the covered company on the FR Y-9C.

(m) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including, as applicable, the company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, E, and G to this part (12 CFR part 225) and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(n) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board annually determines are appropriate for use in the supervisory stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(o) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(p) *Stress test cycle* means the period between October 1 of a calendar year and September 30 of the following calendar year.

(q) *Subsidiary* has the same meaning as in § 225.2(o) the Board's Regulation Y (12 CFR 225.2).

(r) *Tier 1 common ratio* has the same meaning as in the Board's Regulation Y (12 CFR 225.8).

§ 252.133 Applicability.

(a) *Compliance date for bank holding companies that are covered companies as of November 15, 2012*—(1) *In general.* Except as provided in paragraph (a)(2) or (3) of this section, a bank holding company that is a covered company as of November 15, 2012, must comply with the requirements of this subpart beginning with the stress test cycle that commences on October 1, 2013, unless that time is extended by the Board in writing.

(2) *2009 Supervisory Capital Assessment Program.* A bank holding company that participated in the 2009

Supervisory Capital Assessment Program, or a successor to such a bank holding company, must comply with the requirements of this subpart beginning with the stress test cycle that commences on November 15, 2012, unless that time is extended by the Board in writing.

(3) *SR Letter 01-01.* A U.S.-domiciled bank holding company that is a covered company as of November 15, 2012, and is a subsidiary of a foreign banking organization that is currently relying on Supervision and Regulation Letter SR 01-01 issued by the Board (as in effect on May 19, 2010) must comply with the requirements of this subpart beginning with the stress test cycle that commences on October 1, 2015, unless that time is extended by the Board in writing.

(b) *Compliance date for institutions that become covered companies after November 15, 2012*—(1) *Bank holding companies.* A bank holding company that becomes a covered company after November 15, 2012, must comply with the requirements of this subpart beginning with the stress test cycle that commences in the calendar year after the year in which the bank holding company becomes a covered company, unless that time is extended by the Board in writing.

(2) *Nonbank financial companies supervised by the Board.* A company that becomes a nonbank financial company supervised by the Board must comply with the requirements of this subpart beginning with the stress test cycle that commences in the calendar year after the year in which the company first becomes subject to the Board's minimum regulatory capital requirements, unless the Board accelerates or extends the compliance date.

(c) *Ongoing application.* A bank holding company that is a covered company will remain subject to the requirements of this subpart unless and until its total consolidated assets fall below \$50 billion for each of four consecutive quarters, as reported on the FR Y-9C. The calculation will be effective on the as-of date of the fourth consecutive FR Y-9C.

(d) *Advanced approaches.* Notwithstanding any other requirement in this section, the Board's analysis of a covered company's capital in a given stress test cycle will not include estimates using the advanced approaches if the covered company is notified on or after the first day of that stress test cycle (October 1) that the covered company is required to calculate its risk-based capital

requirements using the advanced approaches.

§ 252.134 Annual analysis conducted by the Board.

(a) *In general.* (1) On an annual basis, the Board will conduct an analysis of each covered company's capital, on a total consolidated basis, taking into account all relevant exposures and activities of that covered company, to evaluate the ability of the covered company to absorb losses in specified economic and financial conditions.

(2) The analysis will include an assessment of the projected losses, net income, and pro forma capital levels and regulatory capital ratios, tier 1 common ratio, and other capital ratios for the covered company and use such analytical techniques that the Board determines are appropriate to identify, measure, and monitor risks of the covered company that may affect the financial stability of the United States.

(3) In conducting the analyses, the Board will coordinate with the appropriate primary financial regulatory agencies and the Federal Insurance Office, as appropriate.

(b) *Economic and financial scenarios related to the Board's analysis.* The Board will conduct its analysis under this section using a minimum of three different scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario. The Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle by no later than November 15 of each year, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than December 1.

§ 252.135 Data and information required to be submitted in support of the Board's analyses.

(a) *Regular submissions.* Each covered company must submit to the Board such data, on a consolidated basis, that the Board determines is necessary in order for the Board to derive the relevant pro forma estimates of the covered company over the planning horizon under the scenarios described in section 252.134(b).

(b) *Additional submissions required by the Board.* The Board may require a covered company to submit any other information on a consolidated basis that the Board deems necessary in order to:

- (1) Ensure that the Board has sufficient information to conduct its analysis under this subpart; and
- (2) Project a company's pre-provision net revenue, losses, provision for loan

and lease losses, and net income; and, pro forma capital levels, regulatory capital ratios, tier 1 common ratio, and any other capital ratio specified by the Board under the scenarios described in § 252.134(b).

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 252.136 Review of the Board's analysis; publication of summary results.

(a) *Review of results.* Based on the results of the analysis conducted under this subpart, the Board will conduct an evaluation to determine whether the covered company has the capital, on a total consolidated basis, necessary to absorb losses and continue its operation by maintaining ready access to funding, meeting its obligations to creditors and other counterparties, and continuing to serve as a credit intermediary under baseline, adverse and severely adverse scenarios, and any additional scenarios.

(b) *Communication of results to covered companies.* The Board will convey to a covered company a summary of the results of the Board's analyses of such covered company within a reasonable period of time, but no later than March 31.

(c) *Publication of results by the Board.* By March 31 of each calendar year, the Board will disclose a summary of the results of the Board's analyses of a covered company.

§ 252.137 Use requirement.

(a) *In general.* The board of directors and senior management of each covered company must consider the results of the analysis conducted by the Board under this subpart, as appropriate:

- (1) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital);
- (2) When assessing the covered company's exposures, concentrations, and risk positions; and
- (3) In the development or implementation of any plans of the covered company for recovery or resolution.

(b) *Resolution plan updates.* Each covered company must update its resolution plan as the Board determines appropriate, based on the results of the Board's analyses of the covered company under this subpart.

■ 3. Subpart G to part 252 is revised to read as follows:

Subpart G—Company-Run Stress Test Requirements for Covered Companies

Sec.

252.141	Authority and purpose.
252.142	Definitions.
252.143	Applicability.
252.144	Annual stress test.
252.145	Mid-cycle stress test.
252.146	Methodologies and practices.
252.147	Reports of stress test results.
252.148	Disclosure of stress test results.

§ 252.141 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p-1, 1844(b), 1844(c), 5361, 5365, 5366.

(b) *Purpose.* This subpart implements section 165(i)(2) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)), which requires a covered company to conduct annual and semi-annual stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 252.142 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 225, appendix G, and 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(b) *Adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(d) *Bank holding company* has the same meaning as in section 225.2(c) of the Board's Regulation Y (12 CFR 225.2(c)).

(e) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

(f) *Capital action* has the same meaning as in section 225.8(c)(2) of the Board's Regulation Y (12 CFR 225.8(c)(2)).

(g) *Covered company* means:

(1) A bank holding company (other than a foreign banking organization) with average total consolidated assets of \$50 billion or more; and

(2) A nonbank financial company supervised by the Board.

(h) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(i) *Foreign banking organization* has the same meaning as in section 211.21(o) of the Board's Regulation K (12 CFR 211.21(o)).

(j) *Nonbank financial company supervised by the Board* means a nonbank financial company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(k) *Planning horizon* means the period of at least nine quarters, beginning on the first day of a stress test cycle (on October 1 or April 1, as appropriate) over which the relevant projections extend.

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

(m) *Provision for loan and lease losses* means the provision for loan and lease losses as reported by the covered company on the FR Y-9C.

(n) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including, as applicable, the company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, E, and G to this part (12 CFR part 225) and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(o) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board, or with respect to the mid-cycle stress test required under section 252.145 of this subpart, the covered company, annually

determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(p) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

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

(r) *Stress test cycle* means the period between October 1 of a calendar year and September 30 of the following calendar year.

(s) *Subsidiary* has the same meaning as in section 225.2(o) the Board's Regulation Y (12 CFR 225.2).

(t) *Tier 1 common ratio* has the same meaning as in section 225.8 of the Board's Regulation Y (12 CFR 225.8).

§ 252.143 Applicability.

(a) *Compliance date for bank holding companies that are covered companies as of November 15, 2012*—(1) *In general.* Except as provided in paragraph (a)(2) or (3) of this section, a bank holding company that is a covered company as of November 15, 2012, must comply with the requirements of this subpart beginning with the stress test cycle commencing on October 1, 2013, unless that time is extended by the Board in writing.

(2) *2009 Supervisory Capital Assessment Program.* A bank holding company that participated in the 2009 Supervisory Capital Assessment Program, or a successor to such a bank holding company, must comply with the requirements of this subpart beginning with the stress test cycle commencing on November 15, 2012, unless that time is extended by the Board in writing.

(3) *SR Letter 01-01.* A U.S.-domiciled bank holding company that is a covered company as of November 15, 2012, and is a subsidiary of a foreign banking organization that is currently relying on Supervision and Regulation Letter SR 01-01 issued by the Board (as in effect on May 19, 2010) must comply with the requirements of this subpart beginning with the stress test cycle commencing on October 1, 2015, unless that time is extended by the Board in writing.

(b) *Compliance date for institutions that become covered companies after November 15, 2012*—(1) *Bank holding companies.* A bank holding company

that becomes a covered company after November 15, 2012, must comply with the requirements of this subpart beginning with the stress test cycle that commences in the calendar year after the year in which the bank holding company becomes a covered company, unless that time is extended by the Board in writing.

(2) *Nonbank financial companies supervised by the Board.* A company that becomes a nonbank financial company supervised by the Board must comply with the requirements of this subpart beginning with the stress test cycle that commences in the calendar year after the year in which company first becomes subject to the Board's minimum regulatory capital requirements, unless the Board accelerates or extends the compliance date.

(c) *Ongoing application.* A bank holding company that is a covered company will remain subject to the requirements of this subpart unless and until its total consolidated assets fall below \$50 billion for each of four consecutive quarters, as reported on the FR Y-9C. The calculation will be effective on the as-of date of the fourth consecutive FR Y-9C.

(d) *Advanced approaches.* Notwithstanding any other requirement in this section, for a given stress test cycle, a covered company's estimates of its pro forma regulatory capital ratios and the estimate of its pro forma tier 1 common ratio over the planning horizon shall not include estimates using the advanced approaches if the company is notified on or after the first day of that stress test cycle (October 1) that it is required to calculate its risk-based capital requirements using the advanced approaches.

§ 252.144 Annual stress test.

(a) *In general.* A covered company must conduct an annual stress test by January 5 during each stress test cycle based on data as of September 30 of the preceding calendar year, unless the time or the as of date is extended by the Board in writing.

(b) *Scenarios provided by the Board*—(1) *In general.* In conducting a stress test under this section, a covered company must use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, the Board will provide a description of the scenarios to each covered company no later than November 15 of that calendar year.

(2) *Additional components.* (i) The Board may require a covered company with significant trading activity, as determined by the Board and specified

in the Capital Assessments and Stress Testing report (FR Y-14), to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section. The data used in this component will be as of a date between October 1 and December 1 of that calendar year selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than December 1 of the calendar year.

(ii) The Board may require a covered company to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a covered company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response.* If the Board requires a covered company to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2)(ii) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing no later than September 30. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s). Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request. The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by December 1.

§ 252.145 Mid-cycle stress test.

(a) *Mid-cycle stress test requirement.* In addition to the stress test required under section 252.144 of this subpart, a covered company must conduct a stress test by July 5 during each stress test cycle based on data as of March 31 of

that calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios related to mid-cycle stress tests—(1) In general.* A covered company must develop and employ a minimum of three scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario, that are appropriate for its own risk profile and operations, in conducting the stress test required by this section.

(2) *Additional components.* The Board may require a covered company to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a covered company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response.* If the Board requires a covered company to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing no later than March 31. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s). Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request. The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by June 1.

§ 252.146 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under sections 252.144 and 252.145, for each quarter of the planning horizon, a covered company must estimate the following for each scenario required to be used:

(1) Losses, pre-provision net revenue, provision for loan and lease losses, and net income; and

(2) The potential impact on pro forma regulatory capital levels and pro forma capital ratios (including regulatory capital ratios, the tier 1 common ratio, and any other capital ratios specified by the Board), incorporating the effects of any capital actions over the planning horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Assumptions regarding capital actions.* In conducting a stress test under §§ 252.144 and 252.145, a covered company is required to make the following assumptions regarding its capital actions over the planning horizon—

(1) For the first quarter of the planning horizon, the covered company must take into account its actual capital actions as of the end of that quarter; and

(2) For each of the second through ninth quarters of the planning horizon, the covered company must include in the projections of capital:

(i) Common stock dividends equal to the quarterly average dollar amount of common stock dividends that the company paid in the previous year (that is, the first quarter of the planning horizon and the preceding three calendar quarters);

(ii) Payments on any other instrument that is eligible for inclusion in the numerator of a regulatory capital ratio equal to the stated dividend, interest, or principal due on such instrument during the quarter; and

(iii) An assumption of no redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio.

(c) *Controls and oversight of stress testing processes—(1) In general.* The senior management of a covered company must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the covered company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws, regulations, and supervisory guidance. Policies of covered companies must also describe processes for scenario development for the mid-cycle stress test required under § 252.145.

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a covered company must approve and review the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the covered company may warrant, but no less than annually. The board of directors and senior management of the covered company must receive a summary of the results of any stress test conducted under this subpart.

(3) *Role of stress testing results.* The board of directors and senior management of each covered company must consider the results of the analysis it conducts under this subpart, as appropriate:

(i) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital);

(ii) When assessing the covered company's exposures, concentrations, and risk positions; and

(iii) In the development or implementation of any plans of the covered company for recovery or resolution.

§ 252.147 Reports of stress test results.

(a) *Reports to the Board of stress test results.* (1) A covered company must report the results of the stress test required under § 252.144 to the Board by January 5 of each calendar year in the manner and form prescribed by the Board, unless that time is extended by the Board in writing.

(2) A covered company must report the results of the stress test required under § 252.145 to the Board by July 5 of each calendar year in the manner and form prescribed by the Board, unless that time is extended by the Board in writing.

(b) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 252.148 Disclosure of stress test results.

(a) *Public disclosure of results—(1) In general.* (i) A covered company must disclose a summary of the results of the stress test required under section 252.144 in the period beginning on March 15 and ending on March 31, unless that time is extended by the Board in writing.

(ii) A covered company must disclose a summary of the results of the stress test required under § 252.145 in the period beginning on September 15 and ending on September 30, unless that time is extended by the Board in writing.

(2) *Disclosure method.* The summary required under this section may be disclosed on the Web site of a covered company, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results.* A covered company must disclose, at a minimum, the following information regarding the severely adverse scenario:

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

(2) A general description of the methodologies used in the stress test, including those employed to estimate losses, revenues, provision for loan and lease losses, and changes in capital positions over the planning horizon;

(3) Estimates of—

(i) Pre-provision net revenue and other revenue;

(ii) Provision for loan and lease losses, realized losses or gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes;

(iv) Loan losses (dollar amount and as a percentage of average portfolio balance) in the aggregate and by subportfolio, including: domestic closed-end first-lien mortgages; domestic junior lien mortgages and home equity lines of credit; commercial and industrial loans; commercial real estate loans; credit card exposures; other consumer loans; and all other loans; and

(v) Pro forma regulatory capital ratios and the tier 1 common ratio and any other capital ratios specified by the Board;

(4) An explanation of the most significant causes for the changes in regulatory capital ratios and the tier 1 common ratio; and

(5) With respect to a stress test conducted pursuant to section 165(i)(2) of the Dodd-Frank Act by an insured depository institution that is a subsidiary of the covered company and that is required to disclose a summary of its stress tests results under applicable regulations, changes in regulatory capital ratios and any other capital ratios specified by the Board of the depository institution subsidiary over the planning horizon, including an explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Content of results.* (1) The following disclosures required under paragraph (b) of this section must be on

a cumulative basis over the planning horizon:

(i) Pre-provision net revenue and other revenue;

(ii) Provision for loan and lease losses, realized losses/gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes; and

(iv) Loan losses in the aggregate and by subportfolio.

(2) The disclosure of pro forma regulatory capital ratios, the tier 1 common ratio, and any other capital ratios specified by the Board that is required under paragraph (b) of this section must include the beginning value, ending value, and minimum value of each ratio over the planning horizon.

By order of the Board of Governors of the Federal Reserve System, September 24, 2013.

Robert deV. Frierson,
Secretary of the Board.

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FEDERAL RESERVE SYSTEM

12 CFR Part 252

[Docket No. R–1464; RIN 7100 AE 02]

Annual Company-Run Stress Tests at Banking Organizations With Total Consolidated Assets of More Than \$10 Billion But Less Than \$50 Billion; One-Year Transition Period to Revised Regulatory Capital Framework for 2013–2014 Stress Test Cycle

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Interim final rule with request for comment.

SUMMARY: The Board invites comment on an interim final rule that provides a one-year transition period during which bank holding companies and most state member banks with more than \$10 billion but less than \$50 billion in total consolidated assets would not be required to reflect the revised regulatory capital framework that the Board approved on July 2, 2013 (revised capital framework) in their stress tests for the stress test cycle that begins October 1, 2013. For this stress test cycle, these companies will be required to estimate their pro forma capital levels and ratios over the full nine-quarter planning horizon using the Board's current regulatory capital rules. The interim final rule also clarifies when a banking organization would estimate its minimum regulatory capital ratios using