Rules and Regulations

Federal Register

Vol. 78, No. 243

Wednesday, December 18, 2013

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H, Q, and Y; Docket No. R–1459]

RIN 7100 AD–98

Risk-Based Capital Guidelines; Market Risk

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a final rule that revises its market risk capital rule (market risk rule) to address recent changes to the Country Risk Classifications (CRCs) published by the Organization for Economic Cooperation and Development (OECD), which are referenced in the Board's market risk rule; to clarify the treatment of certain traded securitization positions; to make a technical amendment to the definition of covered position; and to clarify the timing of the required market risk disclosures. These changes conform the Board's current market risk rule to the requirements in the Board's new capital framework and thereby allow the current market risk rule to serve as a bridge until the new capital framework becomes fully effective for all banking organizations.

DATES: *Effective date:* April 1, 2014. Any company subject to the rule may elect to adopt it before this date.

FOR FURTHER INFORMATION CONTACT: Constance Horsley, Manager, (202) 452–5239, or Timothy Geishecker, Senior Supervisory Financial Analyst, (202) 475–6353, Capital and Regulatory Policy, Division of Banking Supervision and Regulation; or Benjamin McDonough, Senior Counsel, (202) 452–2036, or Mark Buresh, Attorney (202) 452–5270, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

On July 22, 2013, the Board published in the **Federal Register** a notice of proposed rulemaking (the NPR or the proposal) seeking public comment on the Board's proposal to revise its market risk rule.[1] As indicated in the proposal, the Board had previously amended its market risk rule (the August 2012 final rule)[2] to better capture positions for which the market risk rule is appropriate, reduce pro-cyclicality, enhance the rule's sensitivity to risks that were not adequately captured under the existing methodologies, increase transparency through enhanced disclosures, and implement certain provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), including the prohibition against including references to credit ratings in Federal regulations set forth in section 939A.[3] [4]

The proposal would have addressed recent changes to the country risk classifications (CRCs) published by the Organization for Economic Cooperation and Development (OECD) that would affect the calculation of specific risk capital requirements for certain covered positions, clarified the treatment of certain traded securitization positions, made a technical amendment to the definition of covered position, and clarified the timing of required market risk disclosures. These proposed changes would have conformed the Board's current market risk rule to the material requirements in the Board's new capital framework and thereby would have allowed the current market risk rule to serve as a bridge until the new capital framework becomes fully effective for all banking organizations.[5] The Board received no comments regarding the proposal and therefore, for the same reasons as discussed in the proposal, is finalizing the rule as proposed.

II. Description of the Final Market Risk Rule

A. Sovereign Debt Positions

Under the current market risk rule, a sovereign entity is defined as a central government (including the U.S. government) or an agency, department, ministry, or central bank of a central government. The specific risk capital requirement for a sovereign debt position that is not backed by the full faith and credit of the United States is determined, in part, using CRCs based on the OECD's CRC methodology. The OECD's CRCs are an assessment of

[1] 78 FR 43829 (July 22, 2013). The Board's current market risk rule is at 12 CFR parts 208 and 225, Appendix E (state member banks and bank holding companies, respectively).

[2] The Office of the Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation (collectively, the agencies) published a final rule on August 30, 2012 to revise their respective market risk rules (77 FR 53059 (August 30, 2012)).

[3] The August 2012 final rule incorporated features of documents published by the Basel Committee on Bank Supervision (BCBS) and the International Organizations of Securities Commissions (IOSCO) in 2005, 2009, and 2010 that revised the market risk framework. The BCBS published a revised capital framework in 2004 entitled *International Convergence of Capital Measurement and Capital Standards: A Revised Framework* (Basel II Accord) (available at *http://www.bis.org/publ/bcbs107.htm*) and, between 2005 and 2010, made revisions included in the 2005 publication of *The Application of Basel II to Trading Activities and the Treatment of Double Default Effects* (available at *http://www.bis.org/publ/bcbs111.htm*); the 2009 publications of *Revisions to the Basel II Market Risk Framework* (available at *http://www.bis.org/publ/bcbs158.htm*), *Guidelines for Computing Capital for Incremental Risk in the Trading Book* (available at *http://www.bis.org/publ/bcbs159.htm*), and *Enhancements to the Basel II Framework* (available at *http://www.bis.org/publ/bcbs/basel2enh0901.htm*); and the 2010 publication that established a floor on the risk-based capital requirement for modeled correlation trading positions (available at *http://www.bis.org/press/p100618/annex.pdf*). The agencies provided additional detail on this history in the preamble to the August 2012 final rule (*see* 77 FR 53060, 53060–53062 (August 30, 2012)).

[4] Public Law 111–203, 124 Stat. 1376 (July 21, 2010). Section 939A(a) of the Dodd-Frank Act provides that not later than 1 year after the date of enactment, each Federal agency shall: (1) Review any regulation issued by such agency that requires the use of an assessment of the credit-worthiness of a security or money market instrument; and (2) any references to or requirements in such regulations regarding credit ratings. Section 939A further provides that each such agency ''shall modify any such regulations identified by the review under subsection (a) to remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness as each respective agency shall determine as appropriate for such regulations.'' *See* 15 U.S.C. 78o–7 note. The August 2012 final rule incorporated non-credit ratings based standards for measuring specific risk capital requirements.

[5] 78 FR 62017 (October 11, 2013).

country risk, used to set interest rates for transactions covered by the OECD arrangement on export credits.

The OECD's CRC methodology was established in 1999 and classifies countries into categories based on the application of two basic components: (1) The country risk assessment model (CRAM), which is an econometric model that produces a quantitative assessment of country credit risk; and (2) the qualitative assessment of the CRAM results, which integrates political risk and other risk factors not fully captured by the CRAM. The two components of the CRC methodology are combined and result in countries being classified into one of eight risk categories (0–7), with countries assigned to the 0 category having the lowest possible risk assessment and countries assigned to the 7 category having the highest. The OECD regularly updates CRCs for over 150 countries. Also, CRCs are recognized by the BCBS as an alternative to credit ratings.

As noted in the preamble to the August 2012 final rule, the agencies determined that the use of CRCs to measure sovereign risk for purposes of their respective risk-based capital regulations is permissible under section 939A of the Dodd-Frank Act, because section 939A was not intended to apply to assessments made by organizations such as the OECD. Additionally, the agencies noted that the use of the CRCs was limited in scope.

Following the publication of the August 2012 final rule, the OECD determined that it will no longer classify certain high-income countries that previously received a CRC of zero. Under the August 2012 final rule, sovereign debt positions without a CRC generally receive a specific risk-weighting factor of 8 percent (the equivalent of a 100 percent risk weight). According to the OECD, the CRAM was not used to categorize high-income OECD and Euro Area countries, and therefore the OECD determined that applying a CRC to such countries was no longer appropriate.[6] The OECD also stated that such countries ''will remain subject to the same market credit risk pricing disciplines that are applied to all Category Zero countries,'' and ''[t]his means that the change has no practical impact on the rules that apply to the provision of official export credits.'' [7]

The Board believes that referencing CRCs in its market risk rule is appropriate and represents a reasonable alternative to credit ratings for sovereign exposures. The CRC methodology also is more granular and risk-sensitive than the previous risk-weighting methodology, which was based solely on a sovereign entity's OECD membership. Furthermore, referencing CRCs poses moderate additional burden for banking organizations, because the OECD regularly updates CRCs and makes the assessments available on its public Web site. Additionally, the use of CRCs is consistent with the treatment of sovereign debt positions in the Basel II Accord.[8]

Consistent with the August 2012 final rule, this final rule maps the risk weights to CRCs in a manner consistent with the Basel II standardized approach, which provides risk weights for exposures to foreign sovereigns based on CRCs. This final rule amends the Board's market risk rule to allow exposures to OECD member countries that are covered positions and that no longer receive a CRC or continue to receive a zero percent specific risk-weighting factor (except in cases of default by the sovereign entity). The revised specific risk-weighting factors for sovereign debt positions, with the new category for OECD members with no CRC rating, are set forth in Table 1.

TABLE 1—SPECIFIC RISK-WEIGHTING FACTORS FOR SOVEREIGN DEBT POSITIONS

	Remaining contractual maturity	Risk-weighting factor (in percent)
Sovereign CRC:		
0–1		0
2–3	6 months or less	0.25
	Greater than 6 months and up to and including 24 months	1.0
	Exceeds 24 months	1.6
4–6		8.0
7		12.0
OECD Member with No CRC		0.0
Non-OECD Member with No CRC		8.0
Sovereign Default		12.0

A banking organization may assign to a sovereign debt position a specific risk-weighting factor lower than the applicable specific risk-weighting factor in Table 1 if the position is denominated in the sovereign entity's currency, the banking organization has at least an equivalent amount of liabilities in that foreign currency, and the sovereign entity allows banks under its jurisdiction to assign the lower specific risk-weighting factor to the same exposures to the sovereign entity.

The specific risk-weighting factors for debt positions that are exposures to a public sector entity (PSE), depository institution, foreign bank, or credit union will continue to be tied to the CRC of the applicable sovereign entity. Therefore, under this final rule, a banking organization must assign a specific risk-weighting factor of 0.25, 1.0, or 1.6 percent (depending on the remaining contractual maturity of the position), to a debt position that is an exposure to a PSE, depository institution, foreign bank, or credit union, if the applicable sovereign entity does not have a CRC but is a member of the OECD, unless the sovereign debt position must otherwise be assigned a higher specific risk-weighting factor (for example, in the case of default by the sovereign entity). For each applicable table of specific risk-weighting factors in the rule, the final rule adds an ''OECD Member with No CRC'' category and revises the current ''No CRC'' category to read ''Non-OECD Member with No CRC,'' each with appropriate corresponding specific risk-weighting factors. This additional category addresses those situations, discussed above, where a sovereign entity that had received a CRC of zero will no longer

[6] ''Changes agreed to the Participant Country Risk Classification System,'' *available at: http://www.oecd.org/tad/xcred/cat0.htm.*

[7] *Id.*

[8] *See* footnote 4.

receive a CRC going forward. This approach to an exposure to a sovereign entity, PSE, depository institution, foreign bank, or credit union is consistent with the approach that the Board has adopted in the new capital framework.

The final rule, as well as the current rule, defines default by a sovereign entity as noncompliance by the sovereign entity with its external debt service obligations or the inability or unwillingness of a sovereign government to service an existing loan according to its original terms, as evidenced by failure to pay principal and interest timely and fully, arrearages, or restructuring. A default includes a voluntary or involuntary restructuring that results in a sovereign not servicing an existing obligation in accordance with the obligation's original terms.

B. Securitization Positions—Simplified Supervisory Formula Approach

A banking organization subject to the market risk rule generally must assign a 100 percent specific risk-weighting factor to its securitization positions or apply the so-called Simplified Supervisory Formula Approach (SSFA), which takes into account the nature and quality of the underlying collateral of the securitization and was designed to apply relatively higher capital requirements to the more risky junior tranches of a securitization that are the first to absorb losses and relatively lower requirements to the most senior positions. Consistent with the proposal, this final rule clarifies the treatment of certain securitization positions under the SSFA with regard to determining the delinquency of the underlying exposures as discussed below.

Among the inputs to the SSFA is the ''*W*'' parameter, which increases the capital requirements for a securitization exposure when delinquencies in the underlying assets of the securitization grow. The parameter *W* equals the ratio of (1) the sum of the dollar amounts of any underlying exposures of the securitization that meet certain criteria to (2) the balance, measured in dollars, of underlying exposures. The criteria are that the underlying exposure is 90 days or more past due, subject to a bankruptcy or insolvency proceeding, in the process of foreclosure, held as real estate owned, in default, or has contractually deferred interest payments for 90 days or more.

Banking organizations subject to the market risk rule previously indicated that the criteria could be read to include deferrals of interest that are unrelated to the performance of the loan or the borrower and may inappropriately include certain federally guaranteed student loans. The Board did not intend for parameter *W* to be interpreted in this manner. The market risk rule was intended to capture contractual provisions present in certain instruments that permit borrowers to defer payments due to financial difficulties and, therefore, may conceal credit quality deterioration in the assets underlying a securitization exposure. Accordingly, the final rule clarifies that parameter *W* excludes loans with contractual provisions that allow deferral of principal and interest on federally-guaranteed student loans, in accordance with the terms of those guarantee programs, or on consumer loans including non-federally-guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for periods of deferral that are not initiated based on changes in the creditworthiness of the borrower. This clarification avoids regulatory disincentives for banking organizations to invest in securitizations, particularly securitizations of federally-guaranteed student loans, where the underlying exposures include provisions that allow for the deferral of certain payments for non-credit related reasons. This clarification is consistent with the approach the Board finalized in the new capital framework.

C. Definition of Covered Position

Consistent with the proposal, this final rule adopts a technical amendment to the definition of ''covered position.'' In the current market risk rule, the covered position definition excludes equity positions that are not publicly traded. The Board has refined this exclusion such that a covered position may include a position in an investment company, as defined in and registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (or its non-U.S. equivalent), provided that all the underlying equities held by the investment company are publicly traded. The Board believes that a ''look-through'' approach is appropriate in these circumstances because of the liquidity of the underlying positions, so long as the other conditions of a covered position are satisfied. This modification to the definition of ''covered position'' is consistent with the approach the Board finalized in the new capital framework.

D. Timing of Market Risk Disclosures

Also consistent with the proposal, this final rule adopts amendments to the market risk rule regarding the timing of market risk disclosures as proposed. The final rule clarifies when a banking organization subject to the market risk rule must make its required market risk disclosures. The amendments align with the Board's new capital framework and are consistent with the expectation that public disclosures should be made in a timely manner. The final rule provides that a banking organization must provide timely quantitative disclosures after each calendar quarter. In addition, the final rule clarifies that a banking organization is required to provide timely qualitative disclosures at least annually, after the end of the fourth calendar quarter, provided any significant changes must be disclosed in the interim.

As indicated in the proposal, the timing of disclosures that are required by the federal banking agencies may not always coincide with the timing of disclosures required under other federal laws, including disclosures required under the federal securities laws and their implementing regulations by the SEC. For calendar quarters that do not correspond to fiscal year-end, the Board considers those disclosures that are made within 45 days of the end of the calendar quarter (or within 60 days for the limited purpose of the banking organization's first reporting period in which it is subject to the rule) as timely. In general, where a banking organization's fiscal year-end coincides with the end of a calendar quarter, the Board considers disclosures to be timely if they are made no later than the applicable SEC disclosure deadline for the corresponding Form 10–K annual report. In cases where an institution's fiscal year-end does not coincide with the end of a calendar quarter, the Board will consider the timeliness of disclosures on a case-by-case basis. In some cases, a banking organization's management may determine that a significant change has occurred, such that the most recent reported amounts do not reflect the banking organization's capital adequacy and risk profile. In those cases, a banking organization must disclose the general nature of these changes and briefly describe how they are likely to affect public disclosures going forward.

E. Effective Date of the Final Rule

The final rule will be effective April 1, 2014; however, any bank holding company or state member bank subject to the market risk rule may elect to adopt the requirements in the final rule before the effective date.

III. Administrative Law Matters

A. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board sought to present the proposed rule in a simple and straightforward manner and solicited comment on how to make the proposed rule easier to understand. No comments were received on the use of plain language.

B. Paperwork Reduction Act Analysis

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by Office of Management and Budget (OMB). No additional collections of information pursuant to the Paperwork Reduction Act are contained in this final rule.

C. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA) requires an agency to provide a final regulatory flexibility analysis with a final rule or to certify that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA beginning on July 22, 2013, to include banks with assets less than or equal to $500 million) [9] and publish its analysis or a summary, or its certification and a short, explanatory statement, in the **Federal Register** along with the final rule.

The Board is providing a final regulatory flexibility analysis with respect to this final rule. As discussed above, this final is designed to enhance the safety and soundness of entities with substantial trading activities that the Board supervises. The Board received no public comments on the proposed rule from members of the general public or from the Chief Counsel for Advocacy of the Small Business Administration. Thus, no issues were raised in public comments relating to the Board's initial regulatory flexibility act analysis and no changes are being made in response to such comments.

Under regulations issued by the Small Business Administration, a small entity includes a depository institution or bank holding company with total assets of $500 million or less (a small banking organization). As of September 30, 2013, there were 630 small state member banks. As of June 30, 2013, there were approximately 3,760 small bank holding companies. The final rule will apply only to banking organizations supervised by the Board with aggregate trading assets and trading liabilities (as reported in the banking organizations' most recent quarterly regulatory reporting form) equal to 10 percent or more of quarter-end assets or $1 billion or more. Currently, no small state member bank or small banking holding company meets these threshold criteria, so there will be no additional projected compliance requirements imposed on small banking organizations supervised by the Board. For bank holding companies and state member banks subject to this final rule, this final rule is not expected to impose additional reporting, recordkeeping, or other compliance requirements, other than minimal one-time systems changes.

The Board believes that the final rule will not have a significant economic impact on small banking organizations supervised by the Board and therefore believes that there are no significant alternatives to the final rule that would reduce the economic impact on small banking organizations supervised by the Board.

[9] *See* 13 CFR 121.201. Effective July 22, 2013, the Small Business Administration revised the size standards for banking organizations to $500 million in assets from $175 million in assets. 78 FR 37409 (June 20, 2013).

List of Subjects

12 CFR Part 208

Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

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

Board of Governors of the Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the preamble, parts 208 and 225 of chapter II of title 12 of the Code of Federal Regulations are amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

■ 1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1833(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1831w, 1831x, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, 3905–3909, and 5371; 15 U.S.C. 78b, 78l(b), 78l(i), 780–4(c)(5), 78q, 78q–1, and 78w, 1681s, 1681w, 6801, and 6805; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106 and 4128.

■ 2. Amend Appendix E, section 2, by revising paragraphs (3)(v) through (vii) and adding paragraph (3)(viii) in the definition of ''Covered position'' to read as follows:

Appendix E to Part 208—Risk-Based Capital Guidelines; Market Risk

* * * * *

Section 2. Definitions

* * * * *

Covered position * * *

(3) * * *

(v) Any equity position that is not publicly traded, other than a derivative that references a publicly traded equity and other than a position in an investment company as defined in and registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), provided that all the underlying equities held by the investment company are publicly traded;

(vi) Any equity position that is not publicly traded, other than a derivative that references a publicly traded equity and other than a position in an entity not domiciled in the United States (or a political subdivision thereof) that is supervised and regulated in a manner similar to entities described in paragraph (3)(v) of this definition;

(vii) Any position a bank holds with the intent to securitize; or

(viii) Any direct real estate holding.

* * * * *

■ 3. Amend Appendix E, section 10, by:

■ a. Revising paragraph (b)(2)(i)(A), Table 2, and paragraphs (b)(2)(i)(B), (C), and (D), and adding paragraph (b)(2)(i)(E);

■ b. Revising paragraph (b)(2)(iv)(A) and Table 3;

■ c. Revising paragraph (b)(2)(v), Table 4 and Table 5 to read as follows:

Section 10. Standardized Measurement Method for Specific Risk

* * * * *

(b) *Debt and securitization positions.** * *

(2) * * *

(i) *Sovereign Debt Positions.* (A) In accordance with table 2, a bank must assign a specific risk-weighting factor to a sovereign debt position based on the CRC applicable to the sovereign entity and, as applicable, the remaining contractual maturity of the position, or, if there is no CRC applicable to the sovereign entity, based on whether the sovereign entity is a member of the OECD. Notwithstanding any other provision in this Appendix E, sovereign debt positions that are backed by the full faith and credit of the United States are treated as having a CRC of 0.

TABLE 2—SPECIFIC RISK-WEIGHTING FACTORS FOR SOVEREIGN DEBT POSITIONS

	Specific risk-weighting factor (in percent)		
CRC	0–1	0.0	
	2–3	Remaining contractual maturity of 6 months or less	0.25
		Remaining contractual maturity of greater than 6 and up to and including 24 months.	1.0
		Remaining contractual maturity exceeds 24 months	1.6
	4–6	8.0	
	7	12.0	
OECD Member with No CRC	0.0		
Non-OECD Member with No CRC	8.0		
Default by the Sovereign Entity	12.0		

(B) Notwithstanding paragraph (b)(2)(i)(A) of this section, a bank may assign to a sovereign debt position a specific risk-weighting factor that is lower than the applicable specific risk-weighting factor in table 2 if:

(*1*) The position is denominated in the sovereign entity's currency;

(*2*) The bank has at least an equivalent amount of liabilities in that currency; and

(*3*) The sovereign entity allows banks under its jurisdiction to assign the lower specific risk-weighting factor to the same exposures to the sovereign entity.

(C) A bank must assign a 12.0 percent specific risk-weighting factor to a sovereign debt position immediately upon determination a default has occurred; or if a default has occurred within the previous five years.

(D) A bank must assign a 0.0 percent specific risk-weighting factor to a sovereign debt position if the sovereign entity is a member of the OECD and does not have a CRC assigned to it, except as provided in paragraph (b)(2)(i)(C) of this section.

(E) A bank must assign an 8.0 percent specific risk-weighting factor to a sovereign debt position if the sovereign entity is not a member of the OECD and does not have a CRC assigned to it, except as provided in paragraph (b)(2)(i)(C) of this section.

* * * * *

(iv) *Depository institution, foreign bank, and credit union debt positions.* (A) Except as provided in paragraph (b)(2)(iv)(B) of this section, a bank must assign a specific risk-weighting factor to a debt position that is an exposure to a depository institution, a foreign bank, or a credit union in accordance with table 3, based on the CRC that corresponds to that entity's sovereign of incorporation or the OECD membership status of that entity's sovereign of incorporation if there is no CRC applicable to the entity's sovereign of incorporation, and, as applicable, the remaining contractual maturity of the position.

TABLE 3—SPECIFIC RISK-WEIGHTING FACTORS FOR DEPOSITORY INSTITUTION, FOREIGN BANK, AND CREDIT UNION DEBT POSITIONS

	Specific risk-weighting factor (in percent)	
CRC 0–2 or OECD Member with No CRC	Remaining contractual maturity of 6 months or less	0.25
	Remaining contractual maturity of greater than 6 and up to and including 24 months.	1.0
	Remaining contractual maturity exceeds 24 months	1.6
CRC 3	8.0	
CRC 4–7	12.0	
Non-OECD Member with No CRC	8.0	
Default by the Sovereign Entity	12.0	

* * * * *

(v) *PSE debt positions.* (A) Except as provided in paragraph (b)(2)(v)(B) of this section, a bank must assign a specific risk-weighting factor to a debt position that is an exposure to a PSE in accordance with table 4 and table 5 depending on the position's categorization as a general obligation or revenue obligation, based on the CRC that corresponds to the PSE's sovereign of incorporation or the OECD membership status of the PSE's sovereign of incorporation if there is no CRC applicable to the PSE's sovereign of incorporation, and, as applicable, the remaining contractual maturity of the position.

(B) A bank may assign a lower specific risk-weighting factor than would otherwise apply under tables 4 and 5 to a debt position that is an exposure to a foreign PSE if:

(*1*) The PSE's sovereign of incorporation allows banks under its jurisdiction to assign a lower specific risk-weighting factor to such position; and

(*2*) The specific risk-weighting factor is not lower than the risk weight that corresponds to the PSE's sovereign of incorporation in accordance with tables 4 and 5.

(C) A bank must assign a 12.0 percent specific risk-weighting factor to a PSE debt

position immediately upon determination that a default by the PSE's sovereign of incorporation has occurred or if a default by the PSE's sovereign of incorporation has occurred within the previous five years.

TABLE 4—SPECIFIC RISK-WEIGHTING FACTORS FOR PSE GENERAL OBLIGATION DEBT POSITIONS

	General obligation specific risk-weighting factor (in percent)	
CRC 0–2 or OECD Member with No CRC	Remaining contractual maturity of 6 months or less	0.25
	Remaining contractual maturity of greater than 6 and up to and including 24 months.	1.0
	Remaining contractual maturity exceeds 24 months	1.6
CRC 3	8.0	
CRC 4–7	12.0	
Non-OECD Member with No CRC	8.0	
Default by the Sovereign Entity	12.0	

TABLE 5—SPECIFIC RISK-WEIGHTING FACTORS FOR PSE REVENUE OBLIGATION DEBT POSITIONS

	Revenue obligation specific risk-weighting factor (in percent)	
CRC 0–1 or OECD Member with No CRC	Remaining contractual maturity of 6 months or less	0.25
	Remaining contractual maturity of greater than 6 and up to and including 24 months.	1.0
	Remaining contractual maturity exceeds 24 months	1.6
CRC 2–3	8.0	
CRC 4–7	12.0	
Non-OECD Member with No CRC	8.0	
Default by the Sovereign Entity	12.0	

* * * * *

■ 4. Amend Appendix E, section 11, by revising paragraph (b)(2) to read as follows:

Section 11. Simplified Supervisory Formula Approach

* * * * *

(b) *SSFA parameters.* * * *

(2) Parameter W is expressed as a decimal value between zero and one. Parameter W is the ratio of the sum of the dollar amounts of any underlying exposures of the securitization that meet any of the criteria as set forth in paragraphs (i) through (vi) of this paragraph (b)(2) to the balance, measured in dollars, of underlying exposures:

(i) Ninety days or more past due;

(ii) Subject to a bankruptcy or insolvency proceeding;

(iii) In the process of foreclosure;

(iv) Held as real estate owned;

(v) Has contractually deferred payments for 90 days or more, other than principal or interest payments deferred on:

(A) Federally-guaranteed student loans, in accordance with the terms of those guarantee programs; or

(B) Consumer loans, including non-federally-guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for period(s) of deferral that are not initiated based on changes in the creditworthiness of the borrower; or

(vi) Is in default.

* * * * *

■ 5. Amend Appendix E, section 12, by:

■ a. Revising paragraph (a);

■ b. Revising paragraph (c)(1) introductory text; and

■ c. Revising paragraph (d) introductory text to read as follows:

Section 12. Market Risk Disclosures

(a) *Scope.* A bank must comply with this section unless it is a consolidated subsidiary of a bank holding company or a depository institution that is subject to these requirements or of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction. A bank must make timely disclosures publicly each calendar quarter. If a significant change occurs, such that the most recent reporting amounts are no longer reflective of the bank's capital adequacy and risk profile, then a brief discussion of this change and its likely impact must be provided as soon as practicable thereafter. Qualitative disclosures that typically do not change each quarter may be disclosed annually, provided any significant changes are disclosed in the interim. If a bank believes that disclosure of specific commercial or financial information would prejudice seriously its position by making public certain information that is either proprietary or confidential in nature, the bank is not required to disclose these specific items, but must disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed. The bank's management may provide all of the disclosures required by this section in one place on the bank's public Web site or may provide the disclosures in more than one public financial report or other regulatory reports, provided that the bank publicly provides a summary table specifically indicating the location(s) of all such disclosures.

* * * * *

(c) * * * (1) For each material portfolio of covered positions, the bank must provide timely public disclosures of the following information at least quarterly:

* * * * *

(d) * * * For each material portfolio of covered positions, the bank must provide timely public disclosures of the following information at least annually after the end of the fourth calendar quarter, or more frequently in the event of material changes for each portfolio:

* * * * *

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

■ 6. The authority citation for part 225 is revised 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, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

■ 7. Amend Appendix E, section 2, by revising paragraphs (3)(v) through (vii) and adding paragraph (3)(viii) in the definition of ''Covered position'' to read as follows:

Appendix E to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Market Risk

Section 2. Definitions

* * * * *

Covered position * * *

(3) * * *

(v) Any equity position that is not publicly traded, other than a derivative that references a publicly traded equity and other than a position in an investment company as defined in and registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), provided that all the underlying equities held by the investment company are publicly traded;

(vi) Any equity position that is not publicly traded, other than a derivative that references a publicly traded equity and other than a position in an entity not domiciled in the United States (or a political subdivision thereof) that is supervised and regulated in a manner similar to entities described in paragraph (3)(v) of this definition;

(vii) Any position a bank holds with the intent to securitize; or

(viii) Any direct real estate holding.

* * * * *

■ 8. Amend Appendix E, section 10, by:

■ a. Revising paragraph (b)(2)(i)(A), Table 2, and paragraphs (b)(2)(i)(B), (C), and (D), and adding paragraph (b)(2)(i)(E);

■ b. Revising paragraph (b)(2)(iv)(A) and Table 3;

■ c. Revising paragraph (b)(2)(v), Table 4 and Table 5 to read as follows:

Section 10. Standardized Measurement Method for Specific Risk

* * * * *

(b) *Debt and securitization positions.** * *

(2) * * *

(i) *Sovereign Debt Positions.* (A) In accordance with table 2, a bank must assign a specific risk-weighting factor to a sovereign debt position based on the CRC applicable to the sovereign entity and, as applicable, the remaining contractual maturity of the position, or, if there is no CRC applicable to the sovereign entity, based on whether the sovereign entity is a member of the OECD. Notwithstanding any other provision in this Appendix E, sovereign debt positions that are backed by the full faith and credit of the United States are treated as having a CRC of 0.

TABLE 2—SPECIFIC RISK-WEIGHTING FACTORS FOR SOVEREIGN DEBT POSITIONS

	Specific risk-weighting factor (in percent)	
CRC:		
0–1	0.0	
2–3	Remaining contractual maturity of 6 months or less	0.25
	Remaining contractual maturity of greater than 6 and up to and including 24 months.	1.0
	Remaining contractual maturity exceeds 24 months	1.6
4–6	8.0	
7	12.0	
OECD Member with No CRC	0.0	
Non-OECD Member with No CRC	8.0	
Default by the Sovereign Entity	12.0	

(B) Notwithstanding paragraph (b)(2)(i)(A) of this section, a bank may assign to a sovereign debt position a specific risk-weighting factor that is lower than the applicable specific risk-weighting factor in table 2 if:

(*1*) The position is denominated in the sovereign entity's currency;

(*2*) The bank has at least an equivalent amount of liabilities in that currency; and

(*3*) The sovereign entity allows banks under its jurisdiction to assign the lower specific risk-weighting factor to the same exposures to the sovereign entity.

(C) A bank must assign a 12.0 percent specific risk-weighting factor to a sovereign debt position immediately upon determination a default has occurred; or if a default has occurred within the previous five years.

(D) A bank must assign a 0.0 percent specific risk-weighting factor to a sovereign debt position if the sovereign entity is a member of the OECD and does not have a CRC assigned to it, except as provided in paragraph (b)(2)(i)(C) of this section.

(E) A bank must assign an 8.0 percent specific risk-weighting factor to a sovereign debt position if the sovereign entity is not a member of the OECD and does not have a CRC assigned to it, except as provided in paragraph (b)(2)(i)(C) of this section.

* * * * *

(iv) *Depository institution, foreign bank, and credit union debt positions.* (A) Except as provided in paragraph (b)(2)(iv)(B) of this section, a bank must assign a specific risk-weighting factor to a debt position that is an exposure to a depository institution, a foreign bank, or a credit union in accordance with table 3, based on the CRC that corresponds to that entity's sovereign of incorporation or the OECD membership status of that entity's sovereign of incorporation if there is no CRC applicable to the entity's sovereign of incorporation, and, as applicable, the remaining contractual maturity of the position.

TABLE 3—SPECIFIC RISK-WEIGHTING FACTORS FOR DEPOSITORY INSTITUTION, FOREIGN BANK, AND CREDIT UNION DEBT POSITIONS

	Specific risk-weighting factor (in percent)	
CRC 0–2 or OECD Member with No CRC	Remaining contractual maturity of 6 months or less	0.25
	Remaining contractual maturity of greater than 6 and up to and including 24 months.	1.0
	Remaining contractual maturity exceeds 24 months	1.6
CRC 3	8.0	
CRC 4–7	12.0	
Non-OECD Member with No CRC	8.0	
Default by the Sovereign Entity	12.0	

* * * * *

(v) *PSE debt positions.* (A) Except as provided in paragraph (b)(2)(v)(B) of this section, a bank must assign a specific risk-weighting factor to a debt position that is an exposure to a PSE in accordance with table 4 and table 5 depending on the position's categorization as a general obligation or revenue obligation, based on the CRC that corresponds to the PSE's sovereign of incorporation or the OECD membership status of the PSE's sovereign of incorporation if there is no CRC applicable to the PSE's sovereign of incorporation, and, as applicable, the remaining contractual maturity of the position.

(B) A bank may assign a lower specific risk-weighting factor than would otherwise apply under tables 4 and 5 to a debt position that is an exposure to a foreign PSE if:

(*1*) The PSE's sovereign of incorporation allows banks under its jurisdiction to assign a lower specific risk-weighting factor to such position; and

(*2*) The specific risk-weighting factor is not lower than the risk weight that corresponds to the PSE's sovereign of incorporation in accordance with tables 4 and 5.

(C) A bank must assign a 12.0 percent specific risk-weighting factor to a PSE debt position immediately upon determination that a default by the PSE's sovereign of incorporation has occurred or if a default by the PSE's sovereign of incorporation has occurred within the previous five years.

TABLE 4—SPECIFIC RISK-WEIGHTING FACTORS FOR PSE GENERAL OBLIGATION DEBT POSITIONS

	General obligation specific risk-weighting factor (in percent)	
CRC 0–2 or OECD Member with No CRC	Remaining contractual maturity of 6 months or less	0.25
	Remaining contractual maturity of greater than 6 and up to and including 24 months.	1.0
	Remaining contractual maturity exceeds 24 months	1.6
CRC 3	8.0	
CRC 4–7	12.0	
Non-OECD Member with No CRC	8.0	
Default by the Sovereign Entity	12.0	

TABLE 5—SPECIFIC RISK-WEIGHTING FACTORS FOR PSE REVENUE OBLIGATION DEBT POSITIONS

	Revenue obligation specific risk-weighting factor (in percent)	
CRC 0–1 or OECD Member with No CRC	Remaining contractual maturity of 6 months or less	0.25
	Remaining contractual maturity of greater than 6 and up to and including 24 months.	1.0
	Remaining contractual maturity exceeds 24 months	1.6
CRC 2–3	8.0	
CRC 4–7	12.0	
Non-OECD Member with No CRC	8.0	
Default by the Sovereign Entity	12.0	

* * * * *

■ 9. Amend Appendix E, section 11, by revising paragraph (b)(2) to read as follows:

Section 11. Simplified Supervisory Formula Approach

* * * * *

(b) *SSFA parameters.* * * *

(2) Parameter W is expressed as a decimal value between zero and one. Parameter W is the ratio of the sum of the dollar amounts of any underlying exposures of the securitization that meet any of the criteria as set forth in paragraphs (i) through (vi) of this paragraph (b)(2) to the balance, measured in dollars, of underlying exposures:

(i) Ninety days or more past due;

(ii) Subject to a bankruptcy or insolvency proceeding;

(iii) In the process of foreclosure;

(iv) Held as real estate owned;

(v) Has contractually deferred payments for 90 days or more, other than principal or interest payments deferred on:

(A) Federally-guaranteed student loans, in accordance with the terms of those guarantee programs; or

(B) Consumer loans, including non-federally-guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for period(s) of deferral that are not initiated based on changes in the creditworthiness of the borrower; or

(vi) Is in default.

* * * * *

■ 10. Amend Appendix E, section 12, by:

■ a. Revising paragraph (a);

■ b. Revising paragraph (c)(1) introductory text and;

■ c. Revising paragraph (d) introductory text to read as follows:

Section 12. Market Risk Disclosures

(a) *Scope.* A bank must comply with this section unless it is a consolidated subsidiary of a bank holding company or a depository institution that is subject to these requirements or of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction. A bank must make timely public disclosures each calendar quarter. If a significant change occurs, such that the most recent reporting amounts are no longer reflective of the bank's capital adequacy and risk profile, then a brief discussion of this change and its likely impact must be provided as soon as practicable thereafter. Qualitative disclosures that typically do not change each quarter may be disclosed annually, provided any significant changes are disclosed in the interim. If a bank believes that disclosure of specific commercial or financial information would prejudice seriously its position by making public certain information that is either proprietary or confidential in nature, the bank is not required to disclose these specific items, but must disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed. The bank's management may provide all of the disclosures required by this section in one place on the bank's public Web site or may provide the disclosures in more than one public financial report or other regulatory reports, provided that the bank publicly provides a summary table specifically indicating the location(s) of all such disclosures.

* * * * *

(c) * * * (1) For each material portfolio of covered positions, the bank must provide timely public disclosures of the following information at least quarterly:

* * * * *

(d) * * * For each material portfolio of covered positions, the bank must provide timely public disclosures of the following information at least annually after the end of the fourth calendar quarter, or more frequently in the event of material changes for each portfolio:

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 11, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–29785 Filed 12–17–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 148

[CBP Dec. 13–19; USCBP–2012–0008]

RIN 1515–AD76

Members of a Family for Purpose of Filing CBP Family Declaration

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule affects persons eligible to file a single customs declaration. The final rule expands the definitions of family members residing in one household. As a result of this expansion, more U.S. returning resident and non-resident visitor families will be eligible to file a single customs declaration, and correspondingly, more U.S. returning resident family members may group their personal duty exemptions.

DATES: Effective January 17, 2014.

FOR FURTHER INFORMATION CONTACT: Sophie Galvan, Program Manager, Trusted Traveler Programs, Office of Field Operations, (202) 344–2292.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 2012, U.S. Customs and Border Protection (CBP) published a notice of proposed rulemaking (NPRM) in the **Federal Register** (77 FR 18143) proposing to amend title 19 of the Code of Federal Regulations (19 CFR) regarding U.S. returning residents who are eligible to file a single customs declaration for members of a family residing in one household and traveling together upon arrival in the United States. The amendments proposed in the NPRM would expand the definition of ''members of a family residing in one household'' for purposes of allowing a responsible family member to make a joint declaration, either oral or written, for articles acquired abroad for all members of a family residing in one household and traveling together on their return to the United States.

The NPRM proposed to expand the relationships included in the definition of ''members of a family residing in one household'' and to refer to the additions as ''domestic relationships.'' As proposed in the NPRM, ''domestic relationships'' would include foster children, stepchildren, half-siblings, legal wards, other dependents, and individuals with an *in loco parentis* or guardianship relationship within the definition of ''members of a family residing in one household.'' ''Domestic relationships'' would also include two adult individuals in a committed relationship wherein the partners share financial assets and obligations, and are not married to, or a partner of, anyone else, including, but not limited to, long-time companions, and couples in civil unions or domestic partnerships. The proposed term ''domestic relationship'' would not extend to roommates or other cohabitants not otherwise meeting the above definition. Additionally, the proposed changes would not alter the residency requirements that, in order to file a family declaration, members of a family residing in one household must have lived together in one household at their last permanent residence and intend to live together in one household after their arrival in the United States. The NPRM also proposed to remove outdated references to ''resident servants'' of a family and state instead that individuals employed by the household but not related by blood, marriage, domestic relationship, or adoption cannot be included in the family declaration.

Finally, the NPRM proposed to remove the phrase ''regardless of age'' where it currently appears in the introductory text of §§ 148.34(b) and 148.103(b), because it would not be consistent with the proposed definition of ''domestic relationships.''

CBP solicited comments on the proposed rulemaking.