[5] Women fully breastfeeding multiple infants from the same pregnancy are prescribed 1.5 times the maximum allowances.

[6] Combinations of single-strength and concentrated juices may be issued provided that the total volume does not exceed the maximum monthly allowance for single-strength juice.

[7] WIC formula means infant formula, exempt infant formula, or WIC-eligible nutritionals.

[8] Powder and ready-to-feed may be substituted at rates that provide comparable nutritive value.

[9] Whole milk is the standard milk for issuance to 1-year-old children (12 through 23 months). Fat-reduced milks may be issued to 1-year-old children as determined appropriate by the health care provider per medical documentation. Lowfat (1%) or nonfat milks are the standard milks for issuance for children ≥ 24 months of age and women. Whole milk or reduced fat (2%) milk may be substituted for lowfat (1%) or nonfat milk for children ≥ 24 months of age and women as determined appropriate by the health care provider per medical documentation.

[10] Evaporated milk may be substituted at the rate of 16 fluid ounces of evaporated milk per 32 fluid ounces of fluid milk or a 1:2 fluid ounce substitution ratio. Dry milk may be substituted at an equal reconstituted rate to fluid milk.

[11] For children and women, cheese may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk. For children and women in the pregnant, partially breastfeeding and postpartum food packages, no more than 1 pound of cheese may be substituted. For women in the fully breastfeeding food package, no more than 2 pounds of cheese may be substituted for milk. State agencies do not have the option to issue additional amounts of cheese beyond these maximums even with medical documentation. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children and women in the pregnant, partially breastfeeding and postpartum food packages. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in the fully breastfeeding food package.)

[12] For children24 months of and women, yogurt may be substituted for fluid milk at the rate of 1 quart of yogurt per 1 quart of milk; a maximum of 1 quart of milk can be substituted. Additional amounts of yogurt are not authorized. Whole yogurt is the standard yogurt for issuance to 1-year-old children (12 through 23 months). Lowfat or nonfat yogurt may be issued to 1-year-old children (12 months to 23 months) as determined appropriate by the health care provider per medical documentation. Lowfat or nonfat yogurts are the standard yogurt for issuance to children ≥ 24 months of age and women. Whole yogurt may be substituted for lowfat or nonfat yogurt for children ≥ 24 months of age and women as determined appropriate by the health care provider per medical documentation. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children and women in the pregnant, partially breastfeeding and postpartum food packages. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in the fully breastfeeding food package.)

[13] For children, soy-based beverage and tofu may be substituted for milk as determined appropriate by the health care provider per medical documentation. Soy-based beverage may be substituted for milk on a quart for quart basis up to the total maximum allowance of milk. Tofu may be substituted for milk for children at the rate of 1 pound of tofu per 1 quart of milk. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children.) Additional amounts of tofu may be substituted, up to the maximum allowance for fluid milk for children, as determined appropriate by the health care provider per medical documentation.

[14] For women, soy-based beverage may be substituted for milk on a quart for quart basis up to the total maximum monthly allowance of milk. Tofu may be substituted for milk at the rate of 1 pound of tofu per 1 quart of milk. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in the pregnant, partially breastfeeding and postpartum food packages. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in the fully breastfeeding food package.) Additional amounts of tofu may be substituted, up to the maximum allowances for fluid milk, as determined appropriate by the health care provider per medical documentation.

[15] 32 dry ounces of infant cereal may be substituted for 36 ounces of breakfast cereal as determined appropriate by the health care provider per medical documentation..

[16] At least one half of the total number of breakfast cereals on the State agency's authorized food list must have whole grain as the primary ingredient and meet labeling requirements for making a health claim as a ''whole grain food with moderate fat content'' as defined in Table 4 of paragraph (e)(12) of this section.

[17] Both fresh fruits and fresh vegetables must be authorized by State agencies. Processed fruits and vegetables, i.e., canned (shelf-stable), frozen, and/or dried fruits and vegetables may also be authorized to offer a wider variety and choice for participants. State agencies may choose to authorize one or more of the following processed fruits and vegetables: canned fruit, canned vegetables, frozen fruit, frozen vegetables, dried fruit, and/or dried vegetables. The cash-value voucher may be redeemed for any eligible fruit and vegetable (refer to Table 4 of paragraph (e)(12) of this section and its footnotes). Except as authorized in paragraph (b)(1)(i) of this section, State agencies may not selectively choose which fruits and vegetables are available to participants. For example, if a State agency chooses to offer dried fruits, it must authorize all WIC-eligible dried fruits.

[18] Children and women whose special dietary needs require the use of pureed foods may receive commercial jarred infant food fruits and vegetables in lieu of the cash-value voucher. Children may receive 128 oz of commercial jarred infant food fruits and vegetables and women may receive 160 oz of commercial jarred infant food fruits and vegetables in lieu of the cash-value voucher. Infant food fruits and vegetables may be substituted for the cash-value voucher as determined appropriate by the health care provider per medical documentation.

[19] The monthly value of the fruit/vegetable cash-value vouchers will be adjusted annually for inflation as described in § 246.16(j).

[20] Whole wheat and/or whole grain bread must be authorized. State agencies have the option to also authorize brown rice, bulgur, oatmeal, whole-grain barley, whole wheat macaroni products, or soft corn or whole wheat tortillas on an equal weight basis.

[21] Canned legumes may be substituted for dry legumes at the rate of 64 oz. (e.g., four 16-oz cans) of canned beans for 1 pound dry beans. In Food Packages V and VII, both beans and peanut butter must be provided. However, when individually tailoring Food Packages V or VII for nutritional reasons (e.g., food allergy, underweight, participant preference), State agencies have the option to authorize the following substitutions: 1 pound dry and 64 oz. canned beans/peas (and no peanut butter); or 2 pounds dry or 128 oz. canned beans/peas (and no peanut butter); or 36 oz. peanut butter (and no beans).

[FR Doc. C1–2014–04105 Filed 3–10–14; 8:45 am]

**BILLING CODE 1505–01–D**

## FEDERAL RESERVE SYSTEM

### 12 CFR Parts 225 and 252

**[Regulations Y and YY; Docket Nos. R–1463 and R–1464; RIN 7100 AE–01 and AE–02]**

## 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:** Final rule.

**SUMMARY:** The Board is adopting a final rule to require a bank holding company with total consolidated assets of $50 billion or more to estimate its tier 1 common ratio using the exiting definition for purposes of the Board's capital plan and stress test rules; defer until October 1, 2015, the use of the Board's advanced approaches rule for purposes of the Board's capital planning and stress testing rules; maintain the one-year transition period in the current stress test cycle during which bank holding companies and most state member banks with more than $10 billion but less than $50 billion in total consolidated assets are not required to incorporate the Board's Basel III-based revised regulatory capital framework that the Board approved on July 2, 2013 (revised capital framework); and make minor, conforming changes to the Board's capital plan rule and stress test rules. The final rule maintains all the changes to the Board's capital plan rule and stress test rules that were required under two interim final rules that the Board issued in September 2013, except that under the final rule, no banking organization is required to use the advanced approaches rule for purposes of the capital planning and stress testing rules until 2015.

**DATES:** The final rule is effective April 15, 2014.

**FOR FURTHER INFORMATION CONTACT:** Lisa Ryu, Deputy Associate Director, (202) 263–4833, Constance Horsley, Assistant Director, (202) 452–5239, Ann McKeehan, Senior Supervisory Financial Analyst, (202) 973–6903, or Holly Kirkpatrick, Senior Financial Analyst, (202) 452–2796, Division of Banking Supervision and Regulation; Laurie Schaffer, Associate General Counsel, (202) 452–2272, Benjamin W. McDonough, Senior Counsel, (202) 452–2036, or Christine Graham, Counsel, (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

### *A. Revised Capital Framework*

On July 2, 2013, the Board approved the revised capital framework, which implemented the Basel III regulatory capital reforms and certain changes required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[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 introduces a standardized methodology for calculating risk-weighted assets. The new minimum regulatory capital ratios and the eligibility criteria for regulatory capital instruments began 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 and as explained more fully below, banking organizations will be required to reflect the requirements of the revised capital framework in their capital plans submitted pursuant to 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 Act.

### *B. Capital Plan Rule*

Pursuant to the Board's capital plan rule and its 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 a range of stressed scenarios over a nine-quarter planning horizon (planning horizon).[4] A capital plan also must include a discussion of how a large bank holding company will maintain a pro forma tier 1 common ratio above 5 percent under expected conditions and stressed scenarios.[5]

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 to implement Basel III in the United States.[6] 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.[7]

### *C. Stress Test Rules*

The Board's stress test rules for large bank holding companies and nonbank financial companies supervised by the Board (together, covered companies) 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 that these companies conduct semi-annual company-run stress tests.[8] For the supervisory stress tests, the Board uses data as of September 30 of each year to assess a covered company's capital levels, regulatory capital ratios, and tier 1 common ratio over the nine-quarter planning horizon of a given stress test cycle.[9] Similarly, the semi-annual stress tests conducted by a covered company require it to report, among other elements, its regulatory capital ratios and tier 1 common ratio for each quarter of a nine-quarter planning horizon.[10] The stress test rule for covered companies 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.[11]

### *D. Interim final rules*

On September 30, 2013, the Board published in the **Federal Register** two interim final rules that amended the Board's capital plan rule and stress test rules.[12] The first interim final rule (capital planning and stress testing IFR) amended the Board's capital plan rule [13] and stress test rules [14] 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 in the Board's Basel I-based capital rules (under 12 CFR part 225, Appendix A).[15] This interim final rule also clarified when a banking organization would estimate its minimum regulatory capital ratios using the advanced approaches rule for a given capital plan and stress test cycle and made minor, technical changes to the capital plan rule.[16] Under the interim final rule, a banking organization is required to use the advanced approaches rule in its stress testing and capital planning only if the Board notifies the banking organization on or before September 30 that it has been approved to exit from parallel run under the advanced approaches rule. A satisfactory ''parallel run'' under the

[1] *See* 12 CFR part 217.

[2] A banking organization is subject to the advanced approaches rule if it has consolidated assets of at least $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] *See generally* 12 CFR 225.8.

[4] *Id.*

[5] *Id.* at § 225.8(d)(2)(i)(B).

[6] 76 FR 74631, 74637 (December 1, 2011).

[7] *Id.* at § 225.8(c)(9).

[8] The changes in this final rule would apply to nonbank financial companies supervised by the Board once they become subject to stress test requirements.

[9] 12 CFR 252.44(a).

[10] *Id.* at 252.56(a).

[11] *Id.* at 252.42(r), 252.52(t).

[12] 78 FR 59779 (September 30, 2013); 78 FR 59791 (September 30, 2013).

[13] 76 FR 74631 (Dec. 1, 2011) (codified at 12 CFR 225.8).

[14] 77 FR 62378 (Oct. 12, 2012) (codified at 12 CFR part 252, subparts F and G).

[15] *See* 12 CFR 225.8 (capital plan rule); 12 CFR part 252, subpart F (Supervisory Stress Test Requirements for Covered Companies); 12 CFR part 252, subpart G (Company-Run Stress Test Requirements for Covered Companies).

[16] As of January 1, 2014, the advanced approaches rule is found at 12 CFR part 217, subpart E. Until December 31, 2013, the advanced approaches rule was found at 12 CFR part 208, Appendix F (state member banks) and 12 CFR part 225, Appendix G (bank holding companies).

advanced approaches rule is a period of no less than four consecutive calendar quarters during which the banking organization complies with the qualification requirements of the rule.[17]

The second interim final rule (IFR for $10–$50 billion companies) provided 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 are not required to reflect the Board's revised capital framework in their stress tests for the stress test cycle that began on October 1, 2013. Instead, for this stress test cycle, these companies are required to estimate their pro forma capital levels and ratios over the full nine-quarter planning horizon using the Board's Basel I-based capital rules.[18] Like the capital planning and stress testing IFR, the IFR for $10–$50 billion companies also clarified that a banking organization is required to use the advanced approaches rule in its company-run stress testing only if the Board notifies the banking organization on or before September 30 that it has been approved to exit from parallel run under the advanced approaches rule.

In this final rule, the Board is adopting both the capital planning and stress testing IFR and the IFR for $10–$50 billion companies in final form. The final rule is identical to the interim final rules except that the final rule provides an additional year, until October 1, 2015, for companies that have exited from parallel run to incorporate the advanced approaches rule into their capital planning and company-run stress tests, and for the Board to incorporate the advanced approaches rule in its supervisory stress tests.

## II. Comments on the Interim Final Rules

The Board received two comments on the capital planning and stress testing IFR. The comments were both from individuals and encouraged the Board to implement the Dodd-Frank Act in a stringent manner. Neither commenter provided any specific comments regarding the capital planning and stress testing IFR.

The Board did not receive any comments on the IFR for $10–$50 billion companies.

## III. Summary of the Final Rule

### *A. Incorporating the Revised Capital Framework Into the Capital Plan and Stress Tests Rules*

The capital planning and stress testing IFR clarified that large bank holding companies should continue to calculate their tier 1 common ratio using the methodology in the Board's Basel I-based capital rules. The final rule maintains this requirement.

Under the final rule, a large 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 for that company during that quarter.* Accordingly, under the final rule, in the capital planning and stress test cycle that begins on October 1, 2014, a large bank holding company that is an advanced approaches banking organization is required to calculate its common equity tier 1 capital ratio using the revised capital framework in every quarter of the nine-quarter planning horizon, meet a 4.0 percent minimum in common equity tier 1 capital ratio in 2014, and a 4.5 percent minimum common equity tier 1 capital ratio in 2015 and 2016. A large bank holding company that is not an advanced approaches banking organization is required to calculate its common equity tier 1 capital ratio in the capital planning and stress test cycle that begins on October 1, 2014, using the Basel I-based capital rules in the first quarter of the planning horizon and the revised capital framework in the second through ninth quarters of the planning horizon, and meet a 4.5 percent minimum common equity tier 1 capital ratio in 2015 and 2016. 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 revised capital framework in the same manner as its bank holding company parent in projecting its capital for the upcoming stress test cycle. Table 1 summarizes these requirements.

TABLE 1—COMMON EQUITY RATIOS APPLICABLE TO LARGE BANK HOLDING COMPANIES IN THE CAPITAL PLAN AND STRESS TEST CYCLES THAT BEGINS OCTOBER 1, 2014

| | Q4 2014 | Q1 2015 | Q2 2015 | Q3 2015 | Q4 2015 | Q1 2016 | Q2 2016 | Q3 2016 | Q4 2016 |
|---|---|---|---|---|---|---|---|---|---|
| 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%. | Current T1C ratio of 5.0%. | Current T1C ratio of 5.0%. | Current T1C ratio of 5.0% |
| | CET1 ratio of 4.0%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | 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%. | Current T1C ratio of 5.0%. | Current T1C ratio of 5.0%. | Current T1C ratio of 5.0% |
| | | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5%. | CET1 ratio of 4.5% |

*Current T1C ratio:* the ratio of a bank holding company's tier 1 common capital calculated using the definitions under the Board's Basel I-based capital rules (*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

[17] 12 CFR 217.121(c).

[18] These capital rules are found at 12 CFR parts 208 and 225, Appendix A.

defined under Appendices A and E 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, 2014.

Under the final rule, as under the capital planning and stress testing IFR, both large bank holding companies that are subject to the advanced approaches rule and large bank holding companies that are not subject to the advanced approaches rule must meet a minimum 5.0 percent tier 1 common ratio over every quarter of the planning horizon, calculate the tier 1 common ratio using the definitions of tier 1 capital and total risk-weighted assets under the Board's Basel I-based capital rules, and not incorporate the new definitions in the revised capital framework as part of this calculation. This approach maintains consistency with previous capital plan cycles during the multi-year phase-in of the new common equity tier 1 capital minimum requirement. Once the new minimum common equity tier 1 capital ratio reaches its permanent level of 4.5 percent and the deductions from common equity tier 1 capital are fully phased-in, the Board expects that the common equity tier 1 ratio will be generally more stringent than the tier 1 common ratio of 5.0 percent for the largest bank holding companies.

*B. Transition Period for Revised Capital Framework*

Under the IFR for $10–$50 billion companies, the Board provided bank holding companies and state member banks with total consolidated assets of more than $10 but less than $50 billion (other than state member banks that are subsidiaries of bank holding companies with total consolidated assets of $50 billion or more) with a one-year transition period to incorporate the revised capital framework into their company-run stress tests. During this transition period, these companies are not required to reflect the revised capital framework in any quarter of the nine-quarter planning horizon. The final rule maintains this transition period with respect to the current stress test cycle that began on October 1, 2013.

These companies will estimate their pro forma capital levels and ratios over the planning horizon using the capital rules under 12 CFR part 208, Appendix A (for state member banks) and 12 CFR part 225, Appendix A (for bank holding companies) and will not reflect the impact of the revised capital framework (12 CFR part 217) in their company-run stress tests. In particular, for this stress test cycle, these companies will not calculate common equity tier 1 capital as defined in the revised capital framework or incorporate the effects of any changes to the definition of capital or any changes to the calculation of risk-weighted assets. Beginning with the stress test cycle that starts on October 1, 2014, these companies will be required to reflect the revised capital framework in their company-run stress tests, including the common equity tier 1 capital requirement. Accordingly, for purposes of the stress test cycle that begins on October 1, 2014, each of these companies that is subject to the advanced approaches will be required to calculate its capital requirements, including the common equity tier 1 capital ratio, using the revised capital framework in every quarter of the nine-quarter planning horizon, and each of these companies that is not subject to the advanced approaches will be required to calculate its capital requirements using the Basel I-based capital rules in the first quarter of the planning horizon and the revised capital framework, including the common equity tier 1 capital ratio, in the second through ninth quarters of the planning horizon.

The final rule, like the IFR for $10–$50 billion companies, excludes from the one-year transition period state member banks that are subsidiaries of bank holding companies with total consolidated assets of $50 billion or more. Consistent with the stress test rules applicable to their bank holding company parents, these state member banks must project their regulatory capital ratios for each quarter of the planning horizon *in accordance with the minimum capital requirements that will be in effect during that quarter.*

The Office of the Comptroller of the Currency and Federal Deposit Insurance Company both implemented the Dodd-Frank Act stress testing requirements for the stress test cycle that began on October 1, 2013, in a similar manner for banks and savings associations under their supervision with between $10 and $50 billion in total consolidated assets.

*C. Parallel Run*

In light of the issuance of the revised capital framework, both interim final rules were intended to provide 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. Without regard to the capital planning and stress test rules, 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.[19] The interim final rules provided that for purposes of capital planning and stress testing, a banking organization must be notified that it has completed a successful parallel run by September 30 of a given calendar 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 calendar year. The final rule maintains this approach. Thus, the final rule provides that a 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.

On February 14, 2014, the Board announced that certain advanced approaches banking organizations had completed a successful parallel run.[20] Beginning April 15, 2014, these companies will be required to use the advanced approaches rule to calculate their risk-based capital requirements consistent with the requirements of the advanced approaches rule. However, these companies will not be required to calculate capital according to the advanced approaches rule for purposes of capital planning and stress testing rules until the October 1, 2015, cycle.

As described above, the revised capital framework introduces more stringent capital requirements, including the 4.5 percent minimum common equity tier 1 capital ratio and the increasing deductions that will become effective on January 1, 2015. For the largest bank holding companies, this common equity tier 1 capital requirement, when fully phased in, is generally expected to result in a more stringent capital requirement than the capital plan rule's 5.0 percent tier 1 common ratio, in part because it incorporates significantly higher deductions from capital. The minimum capital requirements will continue to increase in stringency until the capital deductions are fully phased in in 2018. Large bank holding companies began to reflect these more stringent capital requirements in the current capital planning and stress test cycle, and all banking organizations subject to capital planning and stress testing will be

[19] 12 CFR 217.121(d).

[20] *See* Board press release dated February 20, 2014.

required to reflect the more stringent capital requirements in the next capital planning and stress test cycle.

Given the operational complexity associated with incorporating the advanced approaches rule in the capital planning and stress testing processes, the final rule clarifies that the advanced approaches rule's incorporation into the capital plan and stress testing rules will be deferred for one year, until October 1, 2015, with respect to any banking organization that is notified on or before September 30, 2014, that the banking organization may exit from parallel run. The transition period will provide the Federal Reserve with sufficient time to integrate the advanced approaches into its stress testing processes and to provide guidance to advanced approaches banking organizations regarding supervisory expectations for integrating the advanced approaches into their stress testing and capital planning processes.

*D. Technical Changes*

The interim final rule made minor technical changes to the capital plan rule. It clarified 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 also clarified 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 modified 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 additional disclosures would be appropriate.

The final rule maintains these minor and technical modifications without change. The final rule also deletes references to 12 CFR part 225, Appendix G, from the capital plan rule and stress test rules, because this appendix was removed from the Code of Federal Regulations effective January 1, 2014.

## IV. Regulatory Analysis

*A. Regulatory Flexibility Act Analysis*

The Board has considered the potential impact of the 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 final rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing a final regulatory flexibility analysis.

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 final rule would apply to bank holding companies, savings and loan holding companies, and state member banks with total consolidated asset of $10 billion or more and nonbank financial companies supervised by the Board. Companies that would be subject to the interim finale rule therefore substantially exceed the $500 million total asset threshold at which a company is considered a small company under SBA regulations.

The Board did not receive any comments on the interim final rules regarding their impact on small entities. In light of the foregoing, the Board does not believe that the 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 invited comment on how to make the interim final rules easier to understand. The Board did not receive any comments on plain language and believes that the final rule is clearly written.

*C. Paperwork Reduction Act*

This 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 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:** 2 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); 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:

(i) Until October 1, 2015, 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; and

(ii) Beginning October 1, 2015, for a given capital plan cycle (including for purposes of 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 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, and E 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 (d)(4)(i)(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 B is added to read as follows:

### Subpart B—Company-Run Stress Test Requirements for Certain U.S. Banking Organizations With Total Consolidated Assets Over $10 Billion and Less Than $50 Billion

Sec.



## Subpart B—Company-Run Stress Test Requirements for Certain U.S. Banking Organizations With Total Consolidated Assets Over $10 Billion and Less Than $50 Billion

### § 252.10 [Reserved]

### § 252.11 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831o, 1831p–1, 1844(b), 1844(c), 3906–3909, 5365.

(b) *Purpose.* This subpart implements section 165(i)(2) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)), which requires a bank holding company with total consolidated assets of greater than $10 billion but less than $50 billion and savings and loan holding companies and state member banks with total consolidated assets of greater than $10 billion to conduct annual stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

### § 252.12 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Advanced approaches* means the regulatory capital requirements at 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 bank holding company, savings and loan holding company, or state member bank that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Asset threshold* means—

(1) For a bank holding company, average total consolidated assets of greater than $10 billion but less than $50 billion, and

(2) For a savings and loan holding company or state member bank, average total consolidated assets of greater than $10 billion.

(d) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company, savings and loan holding company, or state member bank on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) or Consolidated Report of Condition and Income (Call Report), as applicable, for the four most recent consecutive quarters. If the bank holding company, savings and loan holding company, or state member bank has not filed the FR Y–9C or Call Report, as applicable, 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 or Call Report, as applicable, 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 or Call Report, as applicable, used in the calculation of the average.

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

(f) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank, and that reflect the consensus views of the economic and financial outlook.

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

(h) *Covered company subsidiary* means a state member bank that is a subsidiary of a covered company as defined in subpart F of this part.

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

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

(k) *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.

(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 bank holding company, savings and loan holding company, or state member bank on the FR Y–9C or Call Report, as appropriate.

(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, a company's tier 1 and supplementary leverage ratio and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under the Board's regulations, including appendices A, D, and E to 12 CFR part 225, appendices A, B, and E to 12 CFR part 208, 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. For state member banks other than covered company subsidiaries and for all bank holding companies, for the stress test cycle that commences on October 1, 2013, regulatory capital ratios must be calculated pursuant to the regulatory capital framework set forth in 12 CFR part 225, appendix A, and not the regulatory capital framework set forth in 12 CFR part 217.

(o) *Savings and loan holding company* has the same meaning as in § 238.2(m) of the Board's Regulation LL (12 CFR 238.2(m)).

(p) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank that the Board annually determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(q) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(r) *State member bank* has the same meaning as in § 208.2(g) of the Board's Regulation H (12 CFR 208.2(g)).

(s) *Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a bank holding company, savings and loan holding company, or state member bank over the planning horizon, taking into account the current condition, risks, exposures, strategies, and activities.

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

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

**§ 252.13 Applicability.**

(a) *Compliance date for bank holding companies and state member banks that meet the asset threshold on or before December 31, 2012.* (1) *Bank holding companies*—(i) *In general.* Except as provided in paragraph (a)(1)(ii) of this section, a bank holding company that meets the asset threshold on or before December 31, 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.[1]

(ii) *SR Letter 01–01.* A U.S.-domiciled bank holding company that 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.

(2) *State member banks.* (i) A state member bank that meets the asset threshold as of November 15, 2012, and is a subsidiary of a bank holding company that participated in the 2009 Supervisory Capital Assessment Program, or a successor to such 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.

(ii) A state member bank that meets the asset threshold on or before December 31, 2012, and is not described in paragraph (a)(2)(i) of this section 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]

(b) *Compliance date for bank holding companies and state member banks that meet the asset threshold after December 31, 2012.* A bank holding company or state member bank that meets the asset threshold after December 31, 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 company meets the asset threshold, unless that time is extended by the Board in writing.

(c) *Compliance date for savings and loan holding companies.* (1) A savings and loan holding company that meets the asset threshold on or before the date on which it is subject to minimum regulatory capital requirements 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 becomes subject to the Board's minimum regulatory capital requirements, unless the Board accelerates or extends the compliance date.

(2) A savings and loan holding company that meets the asset threshold after the date on which it is subject to minimum regulatory capital requirements 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 becomes subject to the Board's minimum regulatory capital requirements, unless that time is extended by the Board in writing.

(d) *Ongoing application.* A bank holding company, savings and loan holding company, or state member bank that meets the asset threshold will remain subject to the requirements of this subpart unless and until its total consolidated assets fall below $10 billion for each of four consecutive quarters, as reported on the FR Y–9C or Call Report, as applicable. The calculation will be effective on the as-of date of the fourth consecutive FR Y–9C or Call Report, as applicable.

(e) *Interaction with 12 CFR part 252, subpart F.* Notwithstanding paragraph (d) of this section, a bank holding company or savings and loan holding company that becomes a covered company as defined in subpart F of this part and conducts a stress test pursuant to that subpart is not subject to the requirements of this subpart.

(f) *Advanced approaches.* Notwithstanding any other requirement

[1] *See* § 252.12(c).

[2] *See* § 252.12(c).

in this section, for a given stress test cycle:

(1) Until October 1, 2015, a bank holding company, savings and loan holding company, or state member bank's estimates of its pro forma regulatory capital ratios over the planning horizon shall not include estimates using the advanced approaches; and

(2) Beginning October 1, 2015, a bank holding company, savings and loan holding company, or state member bank's estimates of its pro forma regulatory capital ratios 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.

**§ 252.14 Annual stress test.**

(a) *General requirements.* (1) *Savings and loan holding companies with average total consolidated assets of $50 billion or more and state member banks that are covered company subsidiaries.* A savings and loan holding company with average total consolidated assets of $50 billion or more or a state member bank that is a covered company subsidiary or must conduct a stress test by January 5 of each calendar year 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.

(2) *Bank holding companies, savings and loan holding companies with total consolidated assets of less than $50 billion, and state member banks that are not covered company subsidiaries.* Except as provided in paragraph (a)(1), a bank holding company, savings and loan holding company, or state member bank must conduct a stress test by March 31 of each calendar year using financial statement 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 bank holding company, savings and loan holding company, or state member bank 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 bank holding company, savings and loan holding company, or state member bank no later than November 15 of that calendar year.

(2) *Additional components.* (i) The Board may require a bank holding company, savings and loan holding company, or state member bank 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 Board may also require a state member bank that is subject to 12 CFR part 208, appendix E and that is a subsidiary of a bank holding company subject to paragraph (b)(2)(i) of this section or § 252.54(b)(2)(i) to include a trading and counterparty component in the state member bank's 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 bank holding company, savings and loan holding company, or state member bank 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 bank holding company, savings and loan holding company, or state member bank to include 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 bank holding company, savings and loan holding company, or state member bank 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 bank holding company, savings and loan holding company, or state member bank 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 bank holding company, savings and loan holding company, or state member bank with a description of any additional component(s) or additional scenario(s) by December 1.

**§ 252.15 Methodologies and practices.**

(a) *Potential impact on capital.* In conducting a stress test under § 252.14, for each quarter of the planning horizon, a bank holding company, savings and loan holding company, or state member bank 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 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 § 252.14, a bank holding company or savings and loan holding 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 bank holding company or savings and loan holding 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 bank holding company or savings and loan holding 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 bank holding company, savings and loan holding company, or state member bank 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 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.

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

(3) *Role of stress testing results.* The board of directors and senior management of a bank holding company, savings and loan holding company, or state member bank must consider the results of the stress test in the normal course of business, including but not limited to, the banking organization's capital planning, assessment of capital adequacy, and risk management practices.

**§ 252.16 Reports of stress test results.**

(a) *Reports to the Board of stress test results.* (1) *Savings and loan holding companies with average total consolidated assets of $50 billion or more and state member banks that are covered company subsidiaries.* A savings and loan holding company with average total consolidated assets of $50 billion or more or a state member bank that is a covered company subsidiary must report the results of the stress test 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) *Bank holding companies, savings and loan holding companies, and state member banks.* Except as provided in paragraph (a)(1) of this section, a bank holding company, savings and loan holding company, or state member bank must report the results of the stress test to the Board by March 31 of each calendar year in the manner and form prescribed by the Board, unless that time is extended by the Board in writing.

(b) *Contents of reports.* The report required under paragraph (a) of this section must include, under the baseline scenario, adverse scenario, severely adverse scenario, and any other scenario required under § 252.14(b)(3), a description of the types of risks being included in the stress test; a summary description of the methodologies used in the stress test; and, for each quarter of the planning horizon, estimates of aggregate losses, pre-provision net revenue, provision for loan and lease losses, net income, and regulatory capital ratios. In addition, the report must include an explanation of the most significant causes for the changes in regulatory capital ratios and any other information required by the Board. This paragraph will remain applicable until such time as the Board issues a reporting form to collect the results of the stress test required under § 252.14.

(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 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).

**§ 252.17 Disclosure of stress test results.**

(a) *Public disclosure of results.* (1) *In general.* (i) Except as provided in paragraph (a)(1)(ii) or (b)(2) of this section, a bank holding company, savings and loan holding company, or state member bank must disclose a summary of the results of the stress test in the period beginning on June 15 and ending on June 30 unless that time is extended by the Board in writing.

(ii) Except as provided in paragraph (b)(2) of this section, a state member bank that is a covered company subsidiary or a savings and loan holding company with average total consolidated assets of $50 billion or more must disclose a summary of the results of the stress test in the period beginning on March 15 and ending on March 31, unless that time is extended by the Board in writing.

(2) *Initial disclosure.* A bank holding company, savings and loan holding company, or state member bank that has total consolidated assets of less than $50 billion on or before December 31, 2012, must comply with the requirements of this section beginning with the stress test cycle commencing on October 1, 2014.

(3) *Disclosure method.* The summary required under this section may be disclosed on the Web site of a bank holding company, savings and loan holding company, or state member bank, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results.* (1) *Bank holding companies and savings and loan holding companies.* A bank holding company or savings and loan holding company must disclose, at a minimum, the following information regarding the severely adverse scenario:

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

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

(iii) Estimates of—

(A) Aggregate losses;

(B) Pre-provision net revenue;

(C) Provision for loan and lease losses;

(D) Net income; and

(E) Pro forma regulatory capital ratios and any other capital ratios specified by the Board;

(iv) An explanation of the most significant causes for the changes in regulatory capital ratios; and

(v) With respect to a stress test conducted by an insured depository institution subsidiary of the bank holding company or savings and loan holding company pursuant to section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 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.

(2) *State member banks that are subsidiaries of bank holding companies.* A state member bank that is a subsidiary of a bank holding company will satisfy the public disclosure requirements under section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act when the bank holding company publicly discloses summary results of its stress test pursuant to this section or § 252.58, unless the Board determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the state member bank. In this case, the state member bank must make the same disclosure as required by paragraph (b)(3) of this section.

(3) *State member banks that are not subsidiaries of bank holding companies.*

A state member bank that is not a subsidiary of a bank holding company must disclose, at a minimum, the following information regarding the severely adverse scenario:

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

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

(iii) Estimates of—

(A) Aggregate losses;

(B) Pre-provision net revenue

(C) Provision for loan and lease losses;

(D) Net income; and

(E) Pro forma regulatory capital ratios and any other capital ratios specified by the Board; and

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

(c) *Content of results.* (1) The disclosure of aggregate losses, pre-provision net revenue, provision for loan and lease losses, and net income that is required under paragraph (b) of this section must be on a cumulative basis over the planning horizon.

(2) The disclosure of pro forma regulatory capital ratios 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.

■ 5. Subpart E is added to read as follows:

**Subpart E—Supervisory Stress Test Requirements for U.S. Bank Holding Companies With $50 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board**

Sec.



## Subpart E—Supervisory Stress Test Requirements for U.S. Bank Holding Companies With $50 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board

### § 252.40 [Reserved].

### § 252.41 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.

### § 252.42 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Advanced approaches* means the risk-weighted assets calculation methodologies at 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, and E 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).

### § 252.43 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 (a)(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, for a given stress test cycle:

(1) Until October 1, 2015, the Board's analysis a covered company's capital in a given stress test cycle will not include estimates using the advanced approaches; and

(2) Beginning October 1, 2015, 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.

### § 252.44 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.

### § 252.45 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 § 252.44(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 § 252.44(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).

### § 252.46 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.

### § 252.47 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.

■ 6. Subpart F is revised to read as follows:

**Subpart F—Company-Run Stress Test Requirements for U.S. Bank Holding Companies With $50 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board**

Sec.



## Subpart F—Company-Run Stress Test Requirements for U.S. Bank Holding Companies With $50 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board

### § 252.50 [Reserved].

### § 252.51 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.

### § 252.52 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Advanced approaches* means the risk-weighted assets calculation methodologies at 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) *Capital action* has the same meaning as in § 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 § 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, and E 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 § 252.55, 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 § 225.2(o) the Board's Regulation Y (12 CFR 225.2).

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

### § 252.53 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 (a)(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 capital plan cycle:

(1) Until October 1, 2015, 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; and

(2) Beginning October 1, 2015, 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.

### § 252.54 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 (b)(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.

### § 252.55 Mid-cycle stress test.

(a) *Mid-cycle stress test requirement.* In addition to the stress test required under § 252.54, 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.

**§ 252.56 Methodologies and practices.**

(a) *Potential impact on capital.* In conducting a stress test under §§ 252.54 and 252.55, 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 §§ 252.54 and 252.55, 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 § 252.55.

(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.

**§ 252.57 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 § 252.54 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 § 252.55 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).

**§ 252.58 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 § 252.54 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 § 252.55 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.

■ 7. Subparts G and H are removed and reserved.

■ 8. Subparts J through U are added and reserved.

By order of the Board of Governors of the Federal Reserve System, March 4, 2014.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2014–05053 Filed 3–10–14; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 25

**[Docket No. FAA–2012–0812; Amendment No. 25–138]**

**RIN 2120–AK36**

# Requirements for Chemical Oxygen Generators Installed on Transport Category Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the type certification requirements for chemical oxygen generators installed on transport category airplanes so the generators are secure and not subject to misuse. This rule increases the level of security for future transport category airplane designs but does not directly affect the existing fleet of those airplanes.

**DATES:** This action becomes effective *May 12, 2014.*

**ADDRESSES:** For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''How to Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Jeff Gardlin, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: (425) 227–2136; email: *jeff.gardlin@faa.gov*.

For legal questions concerning this action, contact Douglas Anderson, Federal Aviation Administration, Office of the Regional Counsel, ANM–7, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: (425) 227–2166; email: *douglas.anderson@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue regulations on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This final rule is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety for the design and performance of aircraft; regulations and minimum standards in the interest of safety for inspecting, servicing, and overhauling aircraft; and regulations for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it revises the safety standards for design and operation of transport category airplanes.

### List of Abbreviations and Acronyms Frequently Used in This Document

AD Airworthiness Directive
ARAC Aviation Rulemaking Advisory Committee
COG Chemical Oxygen Generator
LOARC Lavatory Oxygen Aviation Rulemaking Committee
SFAR Special Federal Aviation Regulation

### I. Overview of Final Rule

This final rule adopts new standards for chemical oxygen generators (COG) installed in transport category airplanes. These new standards, based on the recommendations of the Lavatory Oxygen Aviation Rulemaking Committee (LOARC), pertain to future applications for type certificates, address potential security vulnerabilities with COG installations, and provide performance-based options for acceptable methods of compliance.

### II. Background

The FAA became aware of security vulnerabilities with certain types of oxygen systems installed inside the lavatories of most transport category airplanes. To address the underlying security issues, the FAA chartered an aviation rulemaking committee (ARC) to make recommendations regarding new standards for oxygen system installations, as well as how to implement those standards. Specifically, the LOARC was tasked to:

- Establish criteria for in-service, new production and new type design airplanes, preferably in the form of performance standards, for safe and secure installation of lavatory oxygen systems;
- Determine whether the same criteria should apply to the existing fleet and to new production and type designs;
- Establish what type of safety assessment approach should be used, for example, in accordance with Society of Automotive Engineers (SAE)