

consideration of this new and significant information:

- Suspend the effectiveness, in any new reactor licensing proceeding for reactors that employ high-density pool storage of spent fuel, of all regulations approving the standardized designs for those new reactors and all Environmental Assessments (“EAs”) approving Severe Accident Mitigation Design Alternatives (“SAMDA”);

- Suspend all new reactor licensing decisions and license renewal decisions pending completion of this proceeding; and

- Suspend the effectiveness of Table B–1, which codifies the NRC’s generic finding that spent fuel storage in high-density reactor pools during the license renewal term of operating reactor poses no significant environmental impacts and therefore, need not be considered in individual reactor licensing decisions.

The NRC has determined that these requests are not part of the rulemaking process. The NRC will address in a separate action the petitioner’s request to suspend these actions pending the NEPA analysis the petitioner believes to be necessary to address new and significant information generated by the NRC during its post-Fukushima proceedings.

Dated at Rockville, Maryland, this 24th day of April, 2014.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2014–10018 Filed 4–30–14; 8:45 am]

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## DEPARTMENT OF TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 3

[Docket ID OCC–2014–0008]

RIN 1557–AD81

## FEDERAL RESERVE SYSTEM

#### 12 CFR Part 217

[Regulation Q; Docket No. R–1487]

RIN 7100–AD AD16

## FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Part 324

RIN 3064–AE12

### Regulatory Capital Rules: Regulatory Capital, Proposed Revisions to the Supplementary Leverage Ratio

**AGENCIES:** Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) are issuing a notice of proposed rulemaking (proposed rule) that would revise the denominator of the supplementary leverage ratio (total leverage exposure) that the agencies adopted in July 2013 as part of comprehensive revisions to the agencies’ regulatory capital rules (2013 revised capital rule). Specifically, the proposed rule would revise the treatment of on- and off-balance sheet exposures for purposes of determining total leverage exposure, and more closely align the agencies’ rules on the calculation of total leverage exposure with international leverage ratio standards.

The proposed rule would incorporate in total leverage exposure the effective notional principal amount of credit derivatives and other similar instruments through which a banking organization provides credit protection (sold credit protection), modify the calculation of total leverage exposure for derivatives and repo-style transactions, and revise the credit conversion factors (CCFs) applied to certain off-balance sheet exposures. The proposed rule also would make changes to the

methodology for calculating the supplementary leverage ratio and to the public disclosure requirements for the supplementary leverage ratio.

The proposed rule would apply to all banks, savings associations, bank holding companies, and savings and loan holding companies (banking organizations) that are subject to the agencies’ advanced approaches risk-based capital rules (advanced approaches banking organizations), as defined in the 2013 revised capital rule, including advanced approaches banking organizations that are subject to the enhanced supplementary leverage ratio standards that the agencies have adopted in final form and published elsewhere in today’s **Federal Register** (the eSLR standards). Consistent with the 2013 revised capital rule, advanced approaches banking organizations will be required to disclose their supplementary leverage ratios beginning January 1, 2015, and will be required to comply with a minimum supplementary leverage ratio capital requirement of 3 percent and, as applicable, the eSLR standards beginning January 1, 2018. The agencies are seeking comment on all aspects of the proposed rule.

**DATES:** Comments must be received no later than June 13, 2014.

**ADDRESSES:** Comments should be directed to:

*OCC:* Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Please use the title “Regulatory Capital Rules: Regulatory Capital, Proposed Revisions to the Supplementary Leverage Ratio” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—“regulations.gov”:* Go to <http://www.regulations.gov>. Enter “Docket ID OCC–2014–0008” in the Search Box and click “Search”. Results can be filtered using the filtering tools on the left side of the screen. Click on “Comment Now” to submit public comments.

- Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.

- *Email:* [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov).

- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.

- *Fax:* (571) 465-4326.

*Instructions:* You must include “OCC” as the agency name and “Docket ID OCC-2014-0008” in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:*

Go to <http://www.regulations.gov>. Enter “Docket ID OCC-2014-0008” in the Search box and click “Search”.

Comments can be filtered by Agency using the filtering tools on the left side of the screen.

- Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

*Board:* When submitting comments, please consider submitting your comments by email or fax because paper mail in the Washington, DC area and at the Board may be subject to delay. You may submit comments, identified by Docket No. R-1487 RIN AE-16, by any of the following methods:

- *Agency Web site:* <http://www.federalreserve.gov>.

Follow the instructions for submitting comments at

<http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

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

- *Email:* [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

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

All public comments are available from the Board’s Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP-500 of the Board’s Martin Building (20th and C Street NW., Washington, DC 20551) between 9:00 a.m. and 5:00 p.m. on weekdays.

*FDIC:* You may submit comments, identified by RIN 3064-AE12, by any of the following methods:

*Agency Web site:* <http://www.fdic.gov/regulations/laws/federal/propose.html>. Follow instructions for submitting comments on the Agency Web site.

- *Email:* [Comments@fdic.gov](mailto:Comments@fdic.gov). Include the RIN 3064-AE12 on the subject line of the message.

- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

*Public Inspection:* All comments received must include the agency name and RIN 3064-AE12 for this rulemaking. All comments received will be posted without change to <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226 by telephone at (877) 275-3342 or (703) 562-2200.

**FOR FURTHER INFORMATION CONTACT:**

OCC: Roger Tufts, Senior Economic Advisor, (202) 649-6981; or Nicole Billick, Risk Expert, (202) 649-7932, Capital Policy; or Carl Kaminski, Counsel; or Henry Barkhausen,

Attorney, Legislative and Regulatory Activities Division, (202) 649-5490, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

*Board:* Constance M. Horsley, Assistant Director, (202) 452-5239; Thomas Boemio, Manager, (202) 452-2982; or Sviatlana Phelan, Senior Financial Analyst, (202) 912-4306, Capital and Regulatory Policy, Division of Banking Supervision and Regulation; or Benjamin McDonough, Senior Counsel, (202) 452-2036; April C. Snyder, Senior Counsel, (202) 452-3099; or Mark Buresh, Attorney, (202) 452-5270, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263-4869.

*FDIC:* George French, Deputy Director, [grench@fdic.gov](mailto:grench@fdic.gov); Bobby R. Bean, Associate Director, [bbean@fdic.gov](mailto:bbean@fdic.gov); Ryan Billingsley, Chief, Capital Policy Section, [rbillingsley@fdic.gov](mailto:rbillingsley@fdic.gov); Karl Reitz, Chief, Capital Markets Strategies Section, [kreitz@fdic.gov](mailto:kreitz@fdic.gov); Capital Markets Branch, Division of Risk Management Supervision, [regulatorycapital@fdic.gov](mailto:regulatorycapital@fdic.gov) or (202) 898-6888; or Mark Handzlik, Counsel, [mhandzlik@fdic.gov](mailto:mhandzlik@fdic.gov); Michael Phillips, Counsel, [mphillips@fdic.gov](mailto:mphillips@fdic.gov); or Rachel Ackmann, Attorney, [rackmann@fdic.gov](mailto:rackmann@fdic.gov); Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In 2013, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) comprehensively revised and strengthened the capital regulations applicable to banking organizations (2013 revised capital rule). The 2013 revised capital rule included a new minimum supplementary leverage ratio requirement of 3 percent.<sup>1</sup> The supplementary leverage ratio applies to banking organizations that are subject to the agencies’ advanced approaches risk-based capital rules (advanced approaches banking organizations), as defined in the 2013 revised capital rule,

<sup>1</sup> The Board and the OCC published a joint final rule in the *Federal Register* on October 11, 2013 (78 FR 62018) and the FDIC published a substantially identical interim final rule on September 10, 2013 (78 FR 55340).

and is the arithmetic mean of the ratio of tier 1 capital to total leverage exposure calculated as of the last day of each month in the reporting quarter.

The supplementary leverage ratio included in the 2013 revised capital rule is generally consistent with the international leverage ratio introduced by the Basel Committee on Banking Supervision (BCBS) in 2010 (Basel III leverage ratio).<sup>2</sup> The agencies indicated in the preamble to the 2013 revised capital rule that they would consider revising the supplementary leverage ratio to take into account subsequent changes made by the BCBS to the Basel III leverage ratio.

In January 2014, the BCBS adopted revisions to the Basel III leverage ratio, which include the recognition in the denominator of the effective notional principal amount of credit derivatives or similar instruments through which a banking organization provides credit protection, modifications to the measure of exposure for derivatives and repo-style transactions, and revisions to the credit conversion factors (CCFs) for certain off-balance sheet exposures (BCBS 2014 revisions).<sup>3</sup>

The agencies believe that revising the supplementary leverage ratio in a manner consistent with the BCBS 2014 revisions would strengthen the definition of total leverage exposure and improve the measure of a banking organization's on- and off-balance sheet exposures. The agencies believe that the BCBS 2014 revisions would promote consistency in the calculation of this ratio across jurisdictions and are responsive to a number of specific concerns expressed by commenters on the supplementary leverage ratio in the 2013 revised capital rule and on the enhanced supplementary leverage ratio standards proposal (eSLR standards proposal).<sup>4</sup> In addition, the agencies are proposing additional supplementary leverage ratio disclosure requirements, consistent with the BCBS 2014

revisions. The agencies believe that the proposed disclosures would enhance transparency and provide market participants with important information related to the supplementary leverage ratio.

Elsewhere in today's **Federal Register**, the agencies have published a final rule that applies enhanced supplementary leverage ratio standards to the largest, most interconnected U.S. banking organizations (eSLR standards final rule).

The agencies seek comment on all aspects of the proposed rule, including its interactions with the eSLR standards final rule, as the proposed changes to total leverage exposure and the methodology for calculating the supplementary leverage ratio also would, if adopted, affect banking organizations subject to the eSLR standards final rule.

## II. Proposed Rule

As discussed in further detail below, the proposed rule would revise the calculation of the supplementary leverage ratio and the definition of total leverage exposure. The proposed rule also would address some of the comments the agencies received regarding the interaction of the BCBS agreements and the agencies' eSLR standards proposal. In general, the changes are designed to strengthen the supplementary leverage ratio by more appropriately capturing the exposure of a banking organization's on- and off-balance sheet items. For example, the proposed rule would capture in total leverage exposure the effective notional principal amount of credit derivatives and other similar instruments through which a banking organization provides credit protection (sold credit protection), which has the effect of increasing total leverage exposure associated with these credit derivatives, and introduce graduated CCFs in the treatment of off-balance sheet commitments that would reduce the portion of total leverage exposure associated with these commitments. The proposed rule also would modify the total leverage exposure calculation for derivative contracts and repo-style transactions in a manner that is intended to ensure that the supplementary leverage ratio appropriately reflects the economic exposure of these activities.

Consistent with the 2013 revised capital rule, total leverage exposure would continue to include:

(i) The balance sheet carrying value of a banking organization's on-balance sheet assets, less amounts deducted from tier 1 capital under sections 22(a),

22(c), and 22(d) of the 2013 revised capital rule;

(ii) The potential future exposure (PFE) for each derivative contract, including for certain cleared transactions, to which the banking organization is a counterparty (or each single-product netting set of such transactions) determined in accordance with the treatment of derivative contracts under the standardized approach for risk-weighted assets, and as set forth in section 34 of the 2013 revised capital rule. However, for purposes of determining total leverage exposure, a banking organization would not be permitted to reduce the PFE by the amount of any collateral under section 34(b) of the 2013 revised capital rule;<sup>5</sup> and

(iii) 10 percent of the notional amount of unconditionally cancellable commitments made by the banking organization.

Under the proposed rule, total leverage exposure also would include:

- Adjustments to exposure amounts associated with derivative contracts if cash collateral received from, or posted to, a counterparty for derivative contracts does not meet specified conditions;
- The effective notional principal amount, subject to certain reductions, of sold credit protection that is not offset by purchased credit protection on the same underlying reference exposure that meets specified conditions;
- Adjustments to the on-balance sheet asset amounts for repo-style transactions (including securities lending, securities borrowing, repurchase and reverse repurchase transactions), including a requirement to include in total leverage exposure the gross value of receivables associated with repo-style transactions that do not meet specified conditions;
  - A measure of counterparty credit risk for repo-style transactions; and
  - The notional amount of all other off-balance sheet exposures (excluding off-balance sheet exposures associated with securities lending, securities borrowing, reverse repurchase transactions, and derivatives) multiplied by the appropriate CCF under the standardized approach for risk-weighted assets, and as set forth in section 33 of the 2013 revised capital rule. However, for purposes of determining total leverage exposure, the minimum CCF that may be assigned to an off-balance sheet exposure is 10 percent.

The proposed rule also would clarify the calculation of total leverage

<sup>2</sup> See BCBS, "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems" (December 2010 and revised in June 2011), available at <http://www.bis.org/publ/bcbs189.htm>. The BCBS is a committee of banking supervisory authorities, which was established by the central bank governors of the G-10 countries in 1975. More information regarding the BCBS and its membership is available at <http://www.bis.org/bcbs/about.htm>. Documents issued by the BCBS are available through the Bank for International Settlements Web site at <http://www.bis.org>.

<sup>3</sup> See BCBS, "Basel III leverage ratio framework and disclosure requirements" (January 2014), available at <http://www.bis.org/publ/bcbs270.htm>. See also BCBS, "Revised Basel III leverage ratio framework and disclosure requirements—consultative document" (June 2013), available at <http://www.bis.org/publ/bcbs251.htm>.

<sup>4</sup> See 78 FR 51101 (August 20, 2013).

<sup>5</sup> A banking organization may choose to adjust the PFE for certain sold credit protection as described in part II.b of this preamble.

exposure for a clearing member banking organization with regard to cleared derivative contracts that are intermediated on behalf of a clearing member client with a central counterparty (CCP) to ensure that the clearing member banking organization does not double count these exposures.

Finally, the proposed rule would revise the calculation of the supplementary leverage ratio to address some of the comments received on the eSLR standards proposal. Specifically, under the proposed rule, a banking organization would calculate tier 1 capital as of the last day of each reporting quarter, consistent with the calculation of tier 1 capital for purposes of the generally applicable leverage ratio requirement,<sup>6</sup> and total leverage exposure would be calculated as the arithmetic mean of the total leverage exposure calculated as of each day of the reporting quarter.

#### a. Cash Variation Margin

Under the 2013 revised capital rule, total leverage exposure includes a banking organization's on-balance sheet assets, including the carrying value, if any, of derivative contracts on the banking organization's balance sheet. For purposes of determining the carrying value of derivative contracts, U.S. generally accepted accounting principles (GAAP) provide a banking organization the option to reduce any positive mark-to-fair value of a derivative contract by the amount of any cash collateral received from the counterparty, provided the relevant GAAP criteria for offsetting are met (the GAAP offset option).<sup>7</sup> Similarly, under the GAAP offset option, a banking organization has the option to offset the negative mark-to-fair value of a derivative contract with a counterparty by the amount of any cash collateral posted to the counterparty. Essentially, the GAAP offset option allows a banking organization to treat cash collateral that the banking organization receives or posts as a form of pre-settlement of an obligation between itself and its counterparty to the derivative contract. In addition, regardless of whether a banking organization uses the GAAP offset option to calculate the on-balance sheet amount of derivatives contracts, the banking organization includes the amount of cash collateral received from

the counterparty in its on-balance sheet assets, and thus in its total leverage exposure.

The proposed rule would specify the conditions that a banking organization's cash collateral received from or posted to a counterparty to a derivative contract (cash variation margin) would be required to satisfy in order for the cash collateral to not be included in the organization's total leverage exposure. The proposed conditions are generally similar to the criteria for the GAAP offset option, and therefore, to the treatment under the 2013 revised capital rule. However, if a banking organization reduces the positive mark-to-fair value of a derivative contract with a counterparty as permitted under the GAAP offset option, but the cash collateral received does not meet the specified conditions for cash variation margin, the banking organization would be required to include the positive mark-to-fair value of the derivative contract gross of any cash collateral in its total leverage exposure. Similarly, if a banking organization offsets the net negative mark-to-fair value of derivative contracts with a counterparty by the amount of any cash collateral posted to the counterparty, and does not include that cash collateral posted to the counterparty in its on-balance sheet assets, as permitted under the GAAP offset option, but the cash collateral posted does not meet the specified conditions for cash variation margin, the banking organization would be required to include such cash collateral in its total leverage exposure.

The agencies believe that the regular and timely exchange of cash variation margin is an effective way of protecting both counterparties from the effects of a counterparty default. The proposed criteria that must be satisfied for cash variation margin to not be included in total leverage exposure were developed to ensure that such cash collateral is, in substance, a form of pre-settlement payment on a derivative contract. This approach is consistent with the design of the supplementary leverage ratio, which generally does not permit collateral to reduce exposures for purposes of calculating total leverage exposure.

Under the proposed rule, cash variation margin that satisfies the requirements described below may be used to reduce only the current credit exposure amount (*i.e.*, the replacement cost) of a derivative contract, described in section 34(a)(i) of the 2013 revised capital rule, and may not be used to reduce the PFE. Accordingly, the proposed rule would prohibit a banking organization from using cash variation

margin to reduce the net-to-gross ratio (NGR) described in section 34(a)(2)(ii)(B) of the 2013 revised capital rule. Specifically, in the calculation of the NGR, cash variation margin may not reduce the net current credit exposure or the gross current credit exposure. In addition, the current credit exposure amount of all derivative contracts with a counterparty would not be allowed to be negative.

Under the proposed rule, if a banking organization applies the GAAP offset option to the cash collateral exchanged between the banking organization and its counterparty to a derivative contract, the banking organization would be required to reverse the effect of the GAAP offset option for purposes of determining total leverage exposure, unless the cash collateral is cash variation margin that satisfies all of the following conditions:

(1) For derivative contracts that are not cleared through a qualifying central counterparty (QCCP), the cash collateral received by the recipient counterparty is not segregated;

(2) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;

(3) The variation margin transferred under the derivative contract or the governing rules for a cleared transaction is the full amount that is necessary to fully extinguish the current credit exposure amount to the counterparty of the derivative contract, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(4) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that, for purposes of this paragraph, currency of settlement means any currency for settlement specified in the qualifying master netting agreement,<sup>8</sup> the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and

(5) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or the governing rules for a cleared transaction. The qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net

<sup>8</sup> Qualifying master netting agreement is defined in section 2 of the 2013 revised capital rule.

<sup>6</sup> The generally applicable leverage ratio under the 2013 revised capital rule is the ratio of a banking organization's tier 1 capital to its average total consolidated assets as reported on the banking organization's regulatory report minus amounts deducted from tier 1 capital.

<sup>7</sup> See Accounting Standards Codification paragraphs 815-10-45-1 through 7.

basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs.

*Question 1:* What are the benefits and drawbacks of the proposed treatment of cash variation margin for purposes of calculating total leverage exposure?

*Question 2:* What differences, if any, exist between the proposed criteria for cash variation margin for purposes of the supplementary leverage ratio and the treatment of cash collateral under GAAP? Commenters are encouraged to provide quantitative information regarding the magnitude of any such differences. In addition, what are commenters' views on an alternative approach for cash collateral transferred in derivative transactions that would use only the GAAP offset option for purposes of taking into account cash collateral in calculation of total leverage exposure?

*Question 3:* What are the operational implications of the proposed criteria for cash variation margin, as well as the proposed definition of the currency of settlement? What other concerns, if any, do commenters have with regard to banking organizations' ability to satisfy the specified criteria for cash variation margin in light of the requirements for qualifying master netting agreements and cleared transactions?

#### b. Credit Derivatives

Under the 2013 revised capital rule, credit derivatives are treated in the same manner as other derivative contracts for purposes of determining total leverage exposure. As such, a banking organization would calculate the exposure amount associated with a credit derivative using the current exposure methodology as described in section 34 of the 2013 revised capital rule. This methodology captures the counterparty credit risk arising from the creditworthiness of the counterparty, but not the credit risk of the underlying reference exposure.

A banking organization that provides credit protection in the form of a credit derivative agrees to assume the credit risk of the reference exposure, similar to providing a guarantee. As such, a provider of credit protection on an underlying reference exposure has a credit exposure to the underlying reference exposure, in addition to the counterparty credit risk exposure associated with the counterparty. For this reason, the agencies believe that it is appropriate to revise the measure of exposure for sold credit protection in a manner that is more consistent with the treatment of guarantees. Sold credit protection would include, but not be

limited to, credit default swaps and total return swaps that reference instruments with credit risk (e.g., a bond). This proposed change is consistent with the 2014 BCBS revisions.

Accordingly, in addition to the exposure amount calculated for sold credit protection under the current exposure methodology, the proposed rule would include in total leverage exposure the effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of sold credit protection, subject to certain reductions described below. The use of the effective notional principal amount is designed to capture the potential exposure of contracts that are leveraged or otherwise enhanced by the structure of the transaction. For example, a credit default swap with a stated notional amount of \$50 that pays the purchaser of protection twice the difference between the par value of the reference exposure and the value of the reference exposure at default would have an effective notional principal amount equal to \$100.

Under the proposed rule, a banking organization would be permitted to reduce the effective notional principal amount of sold credit protection by any reduction in the mark-to-fair value of the sold credit protection if the reduction is recognized in common equity tier 1 capital.

A banking organization would be permitted to further reduce the effective notional principal amount of sold credit protection by the effective notional principal amount of a credit derivative or similar instrument through which the banking organization has purchased credit protection from a third party (purchased credit protection), provided certain requirements are satisfied as described below.

First, the purchased credit protection would need to have a remaining maturity that is equal to or greater than the remaining maturity of the sold credit protection.

Second, to reduce the effective notional principal amount of sold credit protection that references a single reference exposure, the reference exposure of the purchased credit protection would need to refer to the same legal entity and rank *pari passu* with, or be junior to,<sup>9</sup> the reference exposure of the sold credit protection.

In addition, a banking organization may reduce the effective notional principal amount of sold credit

protection that references a single reference exposure by a purchased credit protection that references multiple exposures if the purchased credit protection is economically equivalent to buying credit protection separately on each of the individual reference exposures of the sold credit protection. For example, this would be the case if a banking organization were to purchase credit protection on an entire securitization structure or on an entire index that includes the reference exposure of the sold credit protection. However, if banking organization purchases credit protection that references multiple exposures, but the purchased credit protection does not cover all of the sold credit protection's reference exposures (that is, the purchased credit protection covers only a subset of the sold credit protection's reference exposures, as in the case of an *n*<sup>th</sup>-to-default credit derivative or a tranche of a securitization), the proposed rule would not allow the banking organization to reduce the effective notional principal amount of the sold credit protection that references a single exposure.

To reduce the effective notional principal amount of sold credit protection that references multiple exposures, the reference exposures of the purchased credit protection would need to refer to the same legal entities and rank *pari passu* with the reference exposures of the sold credit protection. In addition, the level of seniority of the purchased credit protection would need to rank *pari passu* to the level of seniority of the sold credit protection. Therefore, offsetting would be recognized only when all of the reference exposures and the level of subordination of protection sold and protection purchased are identical. For example, a banking organization may reduce the effective notional principal amount of the sold credit protection on an index (e.g., the CDX), or a tranche of an index, with purchased credit protection on such index, or a tranche of equal seniority of such index, respectively.

When a banking organization reduces the effective notional principal amount of sold credit protection by (i) a reduction in the mark-to-fair value of the sold credit protection (through common equity tier 1 capital) and (ii) purchased credit protection as described above, the banking organization must reduce the effective notional principal amount of purchased credit protection by the amount of any increase in the mark-to-fair value of the purchased credit protection that is recognized in common equity tier 1 capital. Further, if

<sup>9</sup> A credit event on the senior reference exposure must result in a credit event on the junior reference exposure.

a banking organization purchases credit protection through a total return swap and records the net payments received as net income but does not record offsetting deterioration in the mark-to-fair value of the sold credit protection on the reference exposure (either through reductions in fair value or by additions to reserves) in common equity tier 1 capital, the banking organization would not be allowed to reduce the effective notional principal amount of the sold credit protection.

Under the proposed rule, because sold credit protection is included in total leverage exposure through the effective notional principal amount, the current credit exposure and the PFE, a banking organization would be permitted to adjust the PFE for sold credit protection to avoid double-counting of the notional amounts of these exposures. For example, if the sold credit protection is governed by a qualifying master netting agreement, a banking organization may adjust the PFE for sold credit protection covered by the qualifying master netting agreement. However, a banking organization would be allowed to adjust only the amount  $A_{\text{gross}}$  of the PFE calculation for sold credit derivatives and would not be allowed to adjust the NGR of the PFE calculation. Finally, a banking organization that elects to adjust the PFE for sold credit derivatives would be required to do so consistently over time.

*Question 4:* What are commenters' views on incorporating the effective notional principal amount of sold credit protection in total leverage exposure and on the proposed criteria for determining the exposure amount of such sold credit protection, including the operational burden of the calculation?

*Question 5:* What specific modifications, if any, should the agencies consider with respect to the proposed measure of exposure for sold credit protection?

*Question 6:* What are commenters' views on the proposed optional adjustment of the PFE calculation for sold credit protection?

### c. Repo-Style Transactions

Under the 2013 revised capital rule, total leverage exposure includes the on-balance sheet carrying value of repo-style transactions, but not any related off-balance sheet exposure for such transactions. For the purpose of determining the on-balance sheet carrying value of a repo-style transaction with a counterparty, GAAP permits the offset of gross values of receivables due from a counterparty under reverse repurchase agreements by

the amount of the payments due to the counterparty (that is, amounts recognized as payables to the same counterparty under repurchase agreements), provided the relevant accounting criteria are met (GAAP offset for repo-style transactions).<sup>10</sup>

Consistent with the approach in the BCBS 2014 revisions, the proposed rule would specify the criteria for when a banking organization would be required to reverse the GAAP offset for repo-style transactions and include a measure of counterparty credit risk for repo-style transactions in the calculation of total leverage exposure to better capture a banking organization's exposure to repo-style transaction counterparties. The proposed rule would also clarify the calculation of exposure for repo-style transactions where a banking organization acts as an agent.

Under the proposed rule, if a banking organization sells securities under a repo-style transaction and the transaction is treated as a sale (rather than a secured borrowing) for accounting purposes, the banking organization would be required to add the value of such securities to total leverage exposure for as long as the repo-style arrangement is outstanding. While the agencies believe that such repo-style arrangements are not common in the United States, the agencies are proposing this treatment, consistent with the BCBS 2014 revisions, to capture a banking organization's economic exposure, even if an accounting sales treatment is achieved, in cases when the banking organization may have future contractual obligations arising under the repo-style arrangement.

*Question 7:* What are commenters' views on the proposed treatment of repo-style arrangements where an accounting sales treatment is achieved?

Under the proposed rule, when a banking organization acts as a principal in a repo-style transaction, it generally would include in total leverage exposure the amount of any on-balance sheet assets recognized for repo-style transactions (that is, after applying the GAAP offset for repo-style transactions). However, if the criteria described below are not satisfied, the banking organization would be required to replace the on-balance sheet assets for those repo-style transactions with the gross value of receivables associated with those repo-style transactions in calculating its total leverage exposure. That is, if a banking organization enters into repurchase and reverse repurchase

transactions with the same counterparty and applies the GAAP offset for repo-style transactions but does not meet the below criteria, the banking organization would be required to replace the on-balance sheet assets of the reverse repurchase transactions with the gross value of receivables for those reverse repurchase transactions.

Specifically, under the proposed rule, the gross value of receivables associated with the repo-style transactions would be included in total leverage exposure unless all of the following criteria are met:

(A) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(B) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(C) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement. That is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date. To achieve this result, both transactions must be settled through the same settlement system and the settlement arrangements must be supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement.

The proposed criteria have been developed by the BCBS to ensure that banking organizations subject to different accounting frameworks and using different settlement mechanisms measure the exposure of repo-style transactions in a consistent manner. For example, the third proposed criterion is designed to ensure that the cash flows between the counterparties to repo-style transactions are equivalent, in effect, to a single net amount on the settlement date. This criterion would be met if the counterparties use securities transfer systems or central settlement systems, supported by cash or intraday credit facilities, that offset repo-style transactions using gross amounts for each counterparty, but require the counterparties to transfer only a net amount owed at the end of the business day.

The agencies observe that, as compared to a potentially more encompassing measure of exposure that

<sup>10</sup> See Accounting Standards Codification paragraph 210-20-45-11.

would include the gross values of receivables in reverse repurchase transactions, the proposed approach of allowing a limited offsetting of such assets gives some recognition to the arrangements that banking organizations have to limit their effective economic exposure from these transactions. Based on supervisory experience with current industry practices, the agencies believe that the proposed criteria for repo-style transactions would result in repo-style transaction amounts in total leverage exposure that are somewhat greater than the on-balance sheet amounts and, as a result, would increase the regulatory capital requirement for such transactions. The agencies also acknowledge that there may be some costs to banking organizations associated with developing information systems to ensure that banking organizations meet the proposed criteria for repo-style transactions.

*Question 8:* What are the operational implications of the proposed netting criteria for repo-style transactions compared to GAAP, and the magnitude of the change in total leverage exposure for these transactions compared to GAAP?

*Question 9:* What are the potential costs of developing the necessary systems to offset amounts recognized as receivables due from a counterparty under reverse repurchase agreements?

In a security-for-security repo-style transaction, rather than receiving cash as collateral against securities loaned, a banking organization receives securities as collateral for the securities that it lends. Under GAAP, the receiver of the securities lent (a securities borrower) does not include a security borrowed on its balance sheet unless the securities borrower sells the security or its lender defaults under the terms of the transaction.<sup>11</sup> The security that a securities borrower transfers to its lender (a securities lender) as collateral would remain on the securities borrower's balance sheet. Consistent with GAAP, under the proposed rule, a securities borrower would include the security transferred to a securities lender in total leverage exposure and would not include the security borrowed in total leverage exposure, unless it sells the security or the lender defaults.

From the securities lender's perspective, under GAAP, a security received as collateral from a securities borrower is included on the security

lender's balance sheet as an asset. The securities lender also would continue to include the security that it lent on its balance sheet, if it is treated as a secured borrowing. Under the proposed rule, in a security-for-security repo-style transaction, a securities lender would be allowed to exclude the security received as collateral from total leverage exposure, unless and until the securities lender sells or re-hypothecates the security. If the securities lender sells or re-hypothecates the security, the securities lender would include the amount of cash received or, in the case of re-hypothecation, the value of the security pledged as collateral in total leverage exposure. This approach is designed to ensure that a securities lender does not include both a security lent and a security received in total leverage exposure, until the securities lender sells or re-hypothecates the security received, to achieve a consistent treatment of security-for-security repo-style transactions under different accounting frameworks.

*Question 10:* What are commenters' views regarding the operational burden of the proposed exclusion of securities received in a security-for-security transaction from total leverage exposure?

*Question 11:* How quantitatively different is the proposed treatment of repo-style transactions in total leverage exposure compared to the treatment under GAAP?

The proposed rule also would include a counterparty credit risk measure in total leverage exposure to capture a banking organization's exposure to the counterparty in repo-style transactions. To determine the counterparty exposure for a repo-style transaction, including a transaction in which a banking organization acts as an agent for a customer and indemnifies the customer against loss, the banking organization would subtract the fair value of the instruments, gold, and cash received from a counterparty from the fair value of any instruments, gold and cash lent to the counterparty. If the resulting amount is greater than zero, it would be included in total leverage exposure. For repo-style transactions that are not subject to a qualifying master netting agreement or that are not cleared transactions, the counterparty exposure measure must be calculated on a transaction-by-transaction basis. However, if a qualifying master netting agreement is in place, or the transaction is a cleared transaction, the banking organization could net the total fair value of instruments, gold, and cash lent to a counterparty against the total fair value of instruments, gold and cash

received from the counterparty for those transactions.

The agencies believe that the proposed approach recognizes that any positive, uncollateralized portion of a repo-style transaction (or a netting set thereof) is, in effect, an economic exposure for a banking organization that warrants inclusion in total leverage exposure.

*Question 12:* What are commenters' views on the proposed treatment of counterparty credit risk for repo-style transactions?

Finally, consistent with the BCBS 2014 revisions, where a banking organization acts as agent for a repo-style transaction and provides a guarantee (indemnity) to a customer with regard to the performance of the customer's counterparty that is greater than the difference between the fair value of the security or cash lent and the fair value of the security or cash borrowed, the banking organization must include the amount of the guarantee that is greater than this difference in its total leverage exposure. The agencies believe that this treatment recognizes that such indemnifications are effectively full or partial guarantees of the security or cash that is lent or borrowed.

*Question 13:* What clarifications may be warranted in any final rule with regard to the proposed treatment for agency repo-style transactions?

#### *d. Credit Conversion Factors for Off-Balance Sheet Exposures*

Under the 2013 revised capital rule, banking organizations must apply a 100 percent CCF to all off-balance sheet items to calculate total leverage exposure, except for unconditionally cancellable commitments, which are subject to a 10 percent CCF. The proposed rule would revise this treatment, consistent with the BCBS 2014 revisions. The proposed rule would retain the 10 percent CCF for unconditionally cancellable commitments, but it would replace the uniform 100 percent CCF for other off-balance sheet items with the CCF's applicable under the standardized approach for risk-weighted assets in section 33 of the 2013 revised capital rule.

For example, under the proposed rule, a banking organization would apply a 20 percent CCF to a commitment with an original maturity of one year or less that is not unconditionally cancellable, as provided by section 33 of the 2013 revised capital rule. However, for a commitment that is unconditionally cancellable, a banking organization would apply a 10 percent CCF even

<sup>11</sup> The accounting treatment of security-for-security transactions is in Accounting Standards Codification 860-30, Secured Borrowing and Collateral.

though such commitment receives a zero percent CCF under the 2013 revised capital rule.

The agencies weighed a number of supervisory and prudential considerations in proposing this approach. The fixed 100 percent CCF in the 2013 revised capital rule is a conservative measure of economic exposure that does not differentiate across types of off-balance sheet commitments. However, because a uniform 100 percent CCF treats all off-balance sheet exposures identically to on-balance sheet exposures, such an approach likely overstates the relative magnitude of the effective economic exposure created by most off-balance sheet exposures as compared to on-balance sheet exposures. The proposed approach is designed to incorporate off-balance sheet exposures in total leverage exposure without overstating the effective exposure amounts for these items.

In addition, to ensure that all unfunded commitments are included in a banking organization's total leverage exposure, unconditionally cancellable commitments (such as credit card lines) would continue to be subject to a CCF of 10 percent, consistent with the 2013 revised capital rule, rather than the zero percent specified in the standardized approach for risk-weighted assets. The agencies believe that the proposed CCFs, which are also consistent with the internationally agreed approach of standardized CCFs, are appropriate for measuring total leverage exposure.

*Question 14:* What are commenters' views on the proposed CCFs for off-balance sheet items? What, if any, modifications should be made to the proposed CCFs for any specific off-balance sheet items?

#### *e. Central Clearing of Derivative Transactions*

The 2013 revised capital rule incorporates over-the-counter (OTC) derivatives and cleared derivative transactions in total leverage exposure in a uniform manner. The agencies are clarifying that the calculation of total leverage exposure must include the PFE for both non-cleared and certain cleared derivative transactions.

The 2013 revised capital rule provides that a banking organization must include in total leverage exposure the PFE for each derivative contract to which the banking organization is a counterparty (or each single-product netting set of such transactions) calculated in accordance with section 34 (OTC derivative contracts), but without regard to any collateral used to reduce risk-based capital requirements

pursuant to section 34(b) of the 2013 revised capital rule. Although cleared transactions are generally addressed in section 35 of the 2013 revised capital rule, section 35 refers to section 34 for the purpose of determining the PFE of cleared derivative transactions. Thus, for the purpose of measuring total leverage exposure, the PFE for each derivative transaction to which a banking organization is a counterparty, including cleared derivative transactions, should be determined pursuant to section 34. The agencies are proposing to revise the description of total leverage exposure to make this point more clear.

In addition, the agencies are clarifying the treatment of a cleared transaction on behalf of a clearing member client (client-cleared transaction). There are two models for client-cleared transactions—the agency model, which is common in the United States, and the principal model. In the agency model, a clearing member client enters into a derivative transaction directly with the CCP and the clearing member banking organization provides a guarantee of its clearing member client's performance to the CCP. If the clearing member client defaults, the clearing member banking organization must assume its clearing member client's obligations to the CCP with respect to the transaction (the guaranteed amount). The agencies are clarifying that the clearing member banking organization must include the guaranteed amount in its total leverage exposure.

In the principal model, the clearing member banking organization serves as an intermediary between the clearing member client and the CCP. The principal model client-cleared transaction generally has two separate components—the clearing member client leg between the clearing member client and the clearing member banking organization, and the CCP leg between the clearing member banking organization and the CCP. The net effect is that, in the absence of a default, the clearing member banking organization is an intermediary for the exchange of cash flows between the clearing member client and the CCP, who are the effective counterparties to the transaction. If the clearing member client defaults in the principal model, the clearing member banking organization must generally continue to honor the clearing member client's contract with the CCP (that is, the guaranteed amount). The agencies are clarifying that the clearing member banking organization must include the guaranteed amount in its total leverage exposure.

In addition, in either model for client-cleared transactions, a banking organization may or may not guarantee the performance of the CCP to a clearing member client. When the clearing member banking organization does not guarantee the performance of the CCP, the clearing member banking organization has no payment obligation to the clearing member client in the event of a CCP default. In these circumstances, requiring the clearing member banking organization to include an exposure to the CCP in its total leverage exposure generally would result in an overstatement of total leverage exposure. Therefore, under the proposed rule, and consistent with the BCBS 2014 revisions, a clearing member banking organization would not be required to include in its total leverage exposure an exposure to the CCP for client-cleared transactions if the clearing member banking organization does not guarantee the performance of the CCP to the clearing member client. However, if a clearing member banking organization does guarantee the performance of the CCP to the clearing member client, then a clearing member banking organization would be required to include an exposure to the CCP for the client-cleared transactions in its total leverage exposure under the proposed rule.

*Question 15:* What are commenters' views on the proposed total leverage exposure measurement of client-cleared transactions entered into by a clearing member banking organization? What other additional clarifications, if any, are necessary to clarify the exposure amount for client-cleared transactions?

#### *f. Daily Averaging*

The 2013 revised capital rule defines the supplementary leverage ratio as the arithmetic mean of the ratio of tier 1 capital to total leverage exposure calculated as of the last day of each month in the reporting quarter. The agencies are proposing to revise the calculation of the supplementary leverage ratio as described below.

Under the proposed rule, the numerator of the supplementary leverage ratio, tier 1 capital, would be calculated as of the last day of each reporting quarter. This approach is consistent with the calculation of the numerator of the generally applicable leverage ratio and would ensure that banking organizations use the same tier 1 calculation for all of their leverage ratio calculations as well as their tier 1 capital ratio. However, total leverage exposure would be defined as the arithmetic mean of the total leverage exposure calculated for each day of the

reporting quarter. In other words, banking organizations would use the average of the daily calculations throughout the quarter of their total leverage exposure without applying any deductions. After calculating quarter-end tier 1 capital, banking organizations would subtract from the measure of total leverage exposure the applicable deductions from the previous quarter, for purposes of calculating the quarter-end supplementary leverage ratio.

Some commenters on the eSLR standards proposal stated that using an average of three month-end balances to calculate total leverage exposure could lead to an artificial and temporary increase of the supplementary leverage ratio at the end of the month. These commenters argued that certain banking organizations, such as custody banks, can experience sudden substantial deposit inflows at the end of reporting periods or during times of financial stress, potentially causing a temporary increase of balance sheet assets. The proposed rule is designed to address this concern regarding sudden deposit inflows and result in measuring total leverage exposure more consistently over time.

*Question 16:* What are commenters' views on the operational burden associated with the daily averaging of off-balance sheet exposures, including the PFE of derivatives, and do the benefits of such a calculation outweigh the costs?

*Question 17:* What are commenters' views on the operational burden and integrity of an approach where daily averaging is required for on-balance sheet assets only? Under such an approach, banking organizations would use the daily average of on-balance sheet exposures and the quarter-end calculation of off-balance sheet exposures when computing total leverage exposure.

*Question 18:* Are there any alternative methods of calculating total leverage exposure that would be appropriate for the supplementary leverage ratio?

### III. Estimated Capital Impact

Quantitatively, compared to the 2013 revised capital rule, the most important changes in total leverage exposure in the proposed rule are (i) the proposed use of standardized CCFs for certain off-balance sheet activities, which should lead to a reduction in total leverage exposure and (ii) the proposed treatment of sold credit derivatives,

which should lead to an increase in total leverage exposure. The actual total leverage exposure under the proposed rule would be especially sensitive to the volume of sold credit derivatives activities and whether those activities are hedged in a manner recognized under the proposal. Other regulatory changes, including the implementation of sections 619 and 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act,<sup>12</sup> also may reduce the volume of credit derivatives generally, in addition to increasing the extent to which credit derivatives are hedged.

Supervisory estimates suggest that the proposed changes to the definition of total leverage exposure would result in an approximately 5.5 percent aggregate increase in total leverage exposure compared to the definition of total leverage exposure in the 2013 revised capital rule for all banking organizations subject to the revised definition.<sup>13</sup> This is an average figure and could vary materially from institution to institution. Additionally, these estimates are especially sensitive to the volume of credit derivatives activities and whether those activities are hedged. For some banking organizations, the proposed total leverage exposure may increase by less than the amount estimated above, and in some cases may result in a decrease in total leverage exposure.

For the eight bank holding companies subject to the eSLR standards, supervisory estimates suggest that the proposed changes to the definition of total leverage exposure would result in an approximately 8.5 percent aggregate increase in total leverage exposure compared to the definition of total leverage exposure in the 2013 revised capital rule. In order to avoid being subject to limitations on capital distributions and discretionary bonus payments, these institutions would need to raise in the aggregate over \$46 billion in tier 1 capital to exceed a 5 percent supplementary leverage ratio under the proposed definition of total leverage exposure, over and above the amount they would need to raise if the definition of total leverage exposure in the 2013 revised capital rule remained unchanged.

The agencies are seeking comment on the regulatory capital impact of the proposed changes to total leverage exposure on advanced approaches banking organizations subject to the supplementary leverage ratio standard

and banking organizations subject to the eSLR standards.

*Question 19:* How does the commenters' estimate of the potential regulatory capital impact under the proposed rule, compared to the regulatory capital impact under the eSLR standards final rule and the 2013 revised capital rule, differ from the agencies' impact estimate of the proposed rule?

*Question 20:* Do the proposed changes to the definition of total leverage exposure warrant any changes to the calibration of the minimum ratios, or the well-capitalized or buffer levels of the supplementary leverage ratio?

### IV. Disclosures

The agencies have long supported meaningful public disclosure by banking organizations about their regulatory capital with a goal of improving market discipline and disclosing information in a comparable and consistent manner. The agencies' regulatory reports already incorporate reporting of the supplementary leverage ratio under the 2013 rule, effective January 1, 2015. Consistent with the BCBS 2014 revisions, the agencies are proposing to apply additional disclosure requirements for the calculation of the supplementary leverage ratio to top-tier advanced approaches banking organizations. The agencies believe that the proposed disclosures would enhance the transparency and consistency of reporting requirements for the supplementary leverage ratio by all internationally active banking organizations.

Specifically, under the proposed rule, banking organizations would complete two parts of a supplementary leverage ratio disclosure table. Part 1 is designed to summarize the differences between the total consolidated accounting assets reported on a banking organization's published financial statements and regulatory reports and the calculation of total leverage exposure. Part 2 is designed to collect information on the components of total leverage exposure in more detail, similar to the version of FFIEC 101, Schedule A taking effect in March 2014. The agencies plan to reconsider the regulatory reporting requirements of the supplementary leverage ratio on FFIEC 101, Schedule A, in the future, to reflect these disclosures.

<sup>12</sup> The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 136. Section 619 prohibits banking entities from engaging in proprietary trading and having

ownership interests in or sponsoring hedge funds or private equity funds. 12 U.S.C. 1851. Section 716 restricts the ability of insured depository institutions to engage in swaps. 12 U.S.C. 8305.

<sup>13</sup> The estimates were generated by using December 2013 CCAR data, December Y–9C data, and June 2013 Quantitative Impact Study data.

TABLE 13 TO SECTION 173 OF THE 2013 REVISED CAPITAL RULE—SUPPLEMENTARY LEVERAGE RATIO

	Dollar amounts in thousands			
	Tril	Bil	Mil	Thou
<b>Part 2: Summary comparison of accounting assets and total leverage exposure</b>				
1 Total consolidated assets as reported in published financial statements.				
2 Adjustment for investments in banking, financial, insurance or commercial entities that are consolidated for accounting purposes but outside the scope of regulatory consolidation.				
3 Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure.				
4 Adjustment for derivative exposures.				
5 Adjustment for repo-style transactions.				
6 Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures).				
7 Other adjustments.				
8 Total leverage exposure.				
<b>Part 2: Supplementary leverage ratio</b>				
<b>On-balance sheet exposures</b>				
1 On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions).				
2 LESS: Amounts deducted from tier 1 capital.				
3 Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2).				
<b>Derivative exposures</b>				
4 Replacement cost for derivative exposures (that is, net of cash variation margin).				
5 Add-on amounts for potential future exposure (PFE) for derivatives exposures.				
6 Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin.				
7 LESS: Deductions of receivable assets for cash variation margin posted in derivatives transactions, if included in on-balance sheet assets.				
8 LESS: Exempted CCP leg of client-cleared transactions.				
9 Effective notional principal amount of sold credit protection.				
10 LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection.				
11 Total derivative exposures (sum of lines 4 to 10).				
<b>Repo-style transactions</b>				
12 On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities sold under a repo-style arrangement.				
13 LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements.				
14 Counterparty credit risk for all repo-style transactions.				
15 Exposure for repo-style transactions where a banking organization acts as an agent.				
16 Total exposures for repo-style transactions (sum of lines 12 to 15).				
<b>Other off-balance sheet exposures</b>				
17 Off-balance sheet exposures at gross notional amounts.				
18 LESS: Adjustments for conversion to credit equivalent amounts.				
19 Off-balance sheet exposures (sum of lines 17 and 18).				
<b>Capital and total leverage exposure</b>				
20 Tier 1 capital.				
21 Total leverage exposure (sum of lines 3, 11, 16 and 19).				
<b>Supplementary leverage ratio</b>				
22 Supplementary leverage ratio .....	(in percent)			

Consistent with the BCBS 2014 revisions, if a banking organization has material differences between its total consolidated assets as reported in published financial statements and regulatory reports and its reported on-balance sheet assets for purposes of calculating the supplementary leverage ratio, the banking organization would be required to disclose and explain the source of the material differences. In addition, if a banking organization's supplementary leverage ratio changes significantly from one reporting period to another, the banking organization would be required to explain the key drivers of the material changes. Banking organizations would be required to disclose this information quarterly, using the exact template proposed in Table 13, and make the disclosures publicly available.

*Question 21:* Would any of the disclosure items in the table not be relevant for U.S. banking organizations?

*Question 22:* What is the operational burden of the proposed disclosure requirements?

*Question 23:* What, if any, modifications to the disclosure requirements should the agencies consider in order to reduce operational burden, clarify disclosure items, or align with other disclosure and reporting requirements?

## V. Regulatory Analyses

### A. Paperwork Reduction Act (PRA)

Certain provisions of the proposed rule contain "collection of information" requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC and FDIC will obtain OMB control numbers. The OMB control number for the Board is 7100–0313 and will be extended, with revision. The information collection requirements contained in this joint notice of proposed rulemaking have been submitted to OMB for review and approval by the OCC and FDIC under section 3507(d) of the PRA and section 1320.11 of OMB's implementing regulations (5 CFR part 1320). The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The proposed rule contains requirements subject to the PRA. The disclosure requirements are found in section \_\_\_\_\_.173. The disclosure

requirements in section \_\_\_\_\_.172 are accounted for in section \_\_\_\_\_.173. This information collection requirement would be consistent with the BCBS 2014 revisions to the Basel III leverage ratio, as mentioned in the Abstract below. The respondents are for-profit financial institutions, not including small businesses (see the agencies' Regulatory Flexibility Analysis).

Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this proposed rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section. A copy of the comments may also be submitted to the OMB desk officer for the agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503; by facsimile to 202–395–6974; or by email to: [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov), Attention, Federal Banking Agency Desk Officer.

### Proposed Information Collection

*Title of Information Collection:* Disclosure Requirements Associated with Supplementary Leverage Ratio.

*Frequency of Response:* Quarterly.

*Affected Public:* Businesses or other for-profit.

### Respondents

*OCC:* National banks and federal savings associations that are subject to the OCC's advanced approaches risk-based capital rules.

*Board:* State member banks, bank holding companies, and savings and loan holding companies that are subject to the Board's advanced approaches risk-based capital rules.

*FDIC:* Insured state nonmember banks and state savings associations that are

subject to the FDIC's advanced approaches risk-based capital rules.

*Abstract:* All banking organizations that are subject to the agencies' advanced approaches risk-based capital rules (advanced approaches banking organizations), as defined in the 2013 revised capital rule, are required to disclose their supplementary leverage ratios beginning January 1, 2015.

Advanced approaches banking organizations must report their supplementary leverage ratios on the applicable regulatory reports. Under the proposed rule, advanced approaches banking organizations would disclose two parts of a supplementary leverage ratio table beginning January 1, 2015. The proposed disclosure requirements are consistent with the proposed calculation of the supplementary leverage ratio in the proposed rule and with the 2014 BCBS revisions to the Basel III leverage ratio. The agencies believe that the proposed disclosures would enhance the transparency and consistency of reporting requirements for the supplementary leverage ratio by all internationally active organizations.

### Disclosure Requirements

Section \_\_\_\_\_.173 states that advanced approaches banking organizations that have successfully completed parallel run must make the disclosures described in Tables 1 through 12. Under the proposed rule, advanced approaches banking organizations would be required to make the disclosures described in the proposed Table 13 beginning January 1, 2015, regardless of the parallel run status. The agencies do not anticipate an additional initial setup burden for complying with the proposed disclosure requirements because advanced approaches banking organizations are already subject to reporting the supplementary leverage ratio on the applicable regulatory reports.

### Estimated Burden per Response

Disclosure Burden  
Section \_\_\_\_\_.173—5 hours.

### OCC

*Number of respondents:* 14.

*Total estimated annual burden:* 280 hours.

### Board

*Number of respondents:* 20.

*Current estimated annual burden:* 413,986 hours.

*Proposed revisions only estimated annual burden:* 400 hours.

*Total estimated annual burden:* 414,386 hours.

## FDIC

*Number of respondents:* 8.

*Total estimated annual burden:* 160 hours.

*B. Regulatory Flexibility Act Analysis*

*OCC:* The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency, in connection with a notice of proposed rulemaking, to prepare an Initial Regulatory Flexibility Act analysis describing the impact of the rule on small entities (defined by the Small Business Administration for purposes of the RFA to include banking entities with total assets of \$500 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities.

Using the SBA's size standards, as of December 31, 2013, the OCC supervised 1,195 small entities.<sup>14</sup>

As described in the **SUPPLEMENTARY INFORMATION** section of the preamble, the proposed rule would apply only to advanced approaches banking organizations. Advanced approaches banking organization is defined to include a national bank or Federal savings associations that has, or is a subsidiary of a bank holding company or savings and loan holding company that has, total consolidated assets of \$250 billion or more, total consolidated on-balance sheet foreign exposure of \$10 billion or more, or that has elected to use the advanced approaches framework. After considering the SBA's size standards and General Principles of Affiliation to identify small entities, the OCC determined that no small national banks or Federal savings associations are advanced approaches banking organizations. Because the proposed rule applies only to advanced approaches banking organizations, it does not impact any OCC-supervised small entities. Therefore, the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of OCC-supervised small entities.

*Board:* The Board is providing an initial regulatory flexibility analysis

<sup>14</sup> The OCC calculated the number of small entities using the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are \$500 million and \$35.5 million, respectively. 78 FR 37409 (June 20, 2013). Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining whether to classify a national bank or Federal savings association as a small entity. The OCC used December 31, 2013, to determine size because a "financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See footnote 8 of the U.S. Small Business Administration's *Table of Size Standards*.

with respect to this proposed rule. As discussed above, this proposed rule would amend the calculation of total leverage exposure in sections 2 and 10 of the 2013 revised capital rule, and amend sections 172 and 173 of the rule by adding additional disclosure requirements. These amendments would implement changes in line with the BCBS 2014 revisions.

Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$500 million or less (a small banking organization).<sup>15</sup> As of December 31, 2013, there were approximately 627 small state member banks. As of December 31, 2013, there were approximately 3,676 small bank holding companies and approximately 268 small savings and loan holding companies.<sup>16</sup>

The proposed rule would apply only to advanced approaches banking organizations, which, generally, are banking organizations with total consolidated assets of \$250 billion or more, that have total consolidated on-balance sheet foreign exposure of \$10 billion or more, are a subsidiary of an advanced approaches depository institution, or that elect to use the advanced approaches framework. Currently, no small top-tier bank holding company, top-tier savings and loan holding company, or state member bank is an advanced approaches banking organization, so there would be no additional projected compliance requirements imposed on small bank holding companies, savings and loan holding companies, or state member banks. The Board expects that any small bank holding companies, savings and loan holding companies, or state member banks that would be covered by this proposed rule would rely on its parent banking organization for compliance and would not bear additional costs.

The Board is aware of no other Federal rules that duplicate, overlap, or conflict with the proposed rule. The Board believes that the proposed rule will not have a significant economic impact on small banking organizations supervised by the Board and therefore believes that there are no significant

<sup>15</sup> See 13 CFR 121.201. Effective July 22, 2013, the Small Business Administration revised the size standards for banking organizations to \$500 million in assets from \$175 million in assets. 78 FR 37409 (June 20, 2013).

<sup>16</sup> Under the prior Small Business Administration threshold of \$175 million in assets, as of March 31, 2013 the Board supervised approximately 369 small state member banks. As of December 31, 2013, there were approximately 2,259 small bank holding companies.

alternatives to the proposed rule that would reduce the economic impact on small banking organizations supervised by the Board.

The Board welcomes comment on all aspects of its analysis. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

*FDIC:* The RFA requires an agency to provide an IRFA with a proposed rule or to certify that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include banking entities with total assets of \$500 million or less).<sup>17</sup>

As described above in this preamble, the proposed rule would amend the definition of total leverage exposure in section 2 of the 2013 revised capital rule, the methodology for determining total leverage exposure under section 10 of the 2013 revised capital rule, and add an additional disclosure requirement in sections 172 and 173 of the 2013 revised capital rule. All of these changes would apply only to advanced approaches banking organizations. Generally, the advanced approaches framework applies to banking organizations that have consolidated total assets equal to \$250 billion or more; have consolidated total on-balance sheet foreign exposure equal to \$10 billion or more; are a subsidiary of a depository institution that uses the advanced approaches framework; or elects to use the advanced approaches framework.

As of December 31, 2013, based on a \$500 million threshold, 1 (out of 3,394) small state nonmember banks and no (out of 303) small state savings associations were under the advanced approaches framework. Therefore, the FDIC does not believe that the proposed rule will result in a significant economic impact on a substantial number of small entities under its supervisory jurisdiction.

The FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small FDIC-supervised institutions.

*C. OCC Unfunded Mandates Reform Act of 1995 Determination*

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4 (Unfunded Mandates Reform Act) provides that an agency that is subject to the Unfunded Mandates Act

<sup>17</sup> Effective July 22, 2013, the SBA revised the size standards for banking organizations to \$500 million in assets from \$175 million in assets. 78 FR 37409 (June 20, 2013).

must prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million (adjusted for inflation) or more in any one year. The current inflation-adjusted expenditure threshold is \$141 million. If a budgetary impact statement is required, section 205 of the UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined this proposed rule is likely to result in the expenditure by the private sector of \$141 million or more. The OCC has prepared a budgetary impact analysis and identified and considered alternative approaches. When the proposed rule is published in the **Federal Register**, the full text of the OCC's analyses will be available at: <http://www.regulations.gov>, Docket ID: OCC-2014-0008.

#### D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the proposed rule in a simple and straightforward manner, and invite comment on the use of plain language. For example:

- Have the agencies organized the material to suit your needs? If not, how could they present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the agencies incorporate to make the regulation easier to understand?

#### List of Subjects

##### 12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

##### 12 CFR Part 217

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

##### 12 CFR Part 324

Administrative practice and procedure, Banks, banking, Capital Adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

#### DEPARTMENT OF THE TREASURY

##### Office of the Comptroller of the Currency

##### 12 CFR Chapter I

##### Authority and Issuance

For the reasons set forth in the preamble and under the authority of 12 U.S.C. 93a, 1462, 1462a, 1463, 1464, 3907, 3909, 1831o, and 5412(b)(2)(B), the Office of the Comptroller of the Currency proposes to amend part 3 of chapter I of title 12, Code of Federal Regulations as follows:

#### PART 3—CAPITAL ADEQUACY STANDARDS

- 1. The authority citation for part 3 continues to read as follows:

**Authority:** 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, and 5412(b)(2)(B).

- 2. In § 3.2, revise the definition of “total leverage exposure” to read as follows:

##### § 3.2 Definitions.

\* \* \* \* \*

*Total leverage exposure* is defined in § 3.10(c)(4)(ii).

\* \* \* \* \*

- 3. Revise § 3.10(c)(4) to read as follows:

##### § 3.10. Minimum capital requirements.

\* \* \* \* \*

(c) \* \* \*

(4) *Supplementary leverage ratio.* (i) An advanced approaches national bank's or Federal savings association's supplementary leverage ratio is the ratio of its tier 1 capital calculated as of the last day of each reporting quarter to total leverage exposure calculated as the simple arithmetic mean of the total leverage exposure calculated as of each day of the reporting quarter, using the applicable deductions under § 3.22(a), (c), and (d) as of the last day of the previous reporting quarter.

(ii) For purposes of this part, *total leverage exposure* means the sum of the items described as follows in paragraphs

(c)(4)(ii)(A) through (c)(4)(ii)(H) of this section, as adjusted by any applicable requirement for clearing member national banks and Federal savings associations described in paragraph (c)(4)(ii)(I):

(A) The balance sheet carrying value of all of the national bank or Federal savings association's on-balance sheet assets, plus the value of securities sold under a repo-style arrangement that are not included on-balance sheet, less amounts deducted from tier 1 capital under § 3.22(a), (c), and (d), and less the value of securities received in security-for-security repo-style transactions, where the national bank or Federal savings association acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received;

(B) The PFE for each derivative contract (including cleared transactions except as provided in paragraph (c)(4)(ii)(I) of this section) to which the national bank or Federal savings association is a counterparty (or each single-product netting set of such transactions) as determined under § 3.34, but without regard to § 3.34(b). A national bank or Federal savings association may choose to adjust the PFE for all credit derivatives or other similar instruments through which it provides credit protection, as included in paragraph (c)(4)(ii)(D) of this section, when calculating the PFE under § 3.34, but without regard to § 3.34(b), provided that it does not adjust the net-to-gross ratio (NGR). A national bank or Federal savings association that makes such election must do so consistently over time for the calculation of the PFE for all credit derivative contracts or similar instruments through which it provides credit protection;

(C) The amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the national bank or Federal savings association's on-balance sheet assets, except if such cash collateral is all or part of variation margin that satisfies the following requirements in paragraphs (c)(4)(ii)(C)(1) through (c)(4)(ii)(C)(5) of this section. Cash variation margin that satisfies the requirements in paragraphs (c)(4)(ii)(C)(1) through (c)(4)(ii)(C)(5) of this section may only be used to reduce the current credit exposure of the derivative contract, calculated as described in § 3.34(a), and not the PFE. In the calculation of the NGR described in § 3.34(a)(2)(ii)(B), cash variation

margin that satisfies the requirements in paragraphs (c)(4)(ii)(C)(1) through (5) of this section may not reduce the net current credit exposure or the gross current credit exposure.

(1) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated;

(2) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;

(3) The variation margin transferred under the derivative contract or the governing rules for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(4) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph, currency of settlement means any currency for settlement specified in the governing qualifying master netting agreement, the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and

(5) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction. The qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(D) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the national bank or Federal savings association provides credit protection, provided that:

(1) The national bank or Federal savings association may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(2) The national bank or Federal savings association may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a purchased credit derivative or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the national bank or Federal savings association provides credit protection and that:

(i) With respect to a credit derivative that references a single exposure, the reference exposure of the purchased credit derivative is to the same legal entity and ranks *pari passu* with, or is junior to, the reference exposure of the credit derivative through which the national bank or Federal savings association provides credit protection; or

(ii) With respect to a credit derivative that references multiple exposures, such as securitization exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank *pari passu* with the reference exposures of the credit derivative through which the national bank or Federal savings association provides credit protection, and the level of seniority of the purchased credit derivative ranks *pari passu* to the level of seniority of the credit derivative through which the national bank or Federal savings association provides credit protection.

(iii) Where a national bank or Federal savings association has reduced the effective notional amount of a credit derivative through which the national bank or Federal savings association provides credit protection in accordance with paragraph (c)(4)(ii)(D)(1) of this section, the national bank or Federal savings association must also reduce the effective notional principal amount of a purchased credit derivative, used to offset the credit derivative through which the national bank or Federal savings association provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(iv) Where the national bank or Federal savings association purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the national bank or Federal savings association provides credit protection in net income, but does not record offsetting deterioration in the mark-to-fair value of the credit

derivative through which the national bank or Federal savings association provides credit protection in net income (either through reductions in fair value or by additions to reserves), the national bank or Federal savings association may not use the purchased credit protection to offset the effective notional principal amount of the credit derivative through which the national bank or Federal savings association provides credit protection.

(E) Where a national bank or Federal savings association acting as a principal has more than one repo-style transaction with the same counterparty and has applied the GAAP offset for repo-style transactions, and the criteria in paragraphs (c)(4)(ii)(E)(1) through (3) of this section are not satisfied, the gross value of receivables associated with the repo-style transactions less any on-balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(4)(ii)(A) of this section.

(1) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(2) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(3) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement. That is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date. To achieve this result, both transactions must be settled through the same settlement system and the settlement arrangements must be supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement.

(F) The counterparty credit risk of a repo-style transaction, including where the national bank or Federal savings association acts as an agent for a repo-style transaction, calculated as follows:

(1) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk (E\*) for transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction *i* is treated as its own netting set, in accordance with the following formula, where  $E_i$  is the fair value of the

instruments, gold, or cash that the national bank or Federal savings association has lent, sold subject to repurchase, or provided as collateral to the counterparty, and  $C_i$  is the fair value of the instruments, gold, or cash that the national bank or Federal savings association has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$$E_i^* = \max \{0, [E_i - C_i]\}; \text{ and}$$

(2) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the national bank or Federal savings association has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in the qualifying master netting agreement ( $\Sigma E_i$ ), less the total fair value of the instruments, gold, or cash that the national bank or Federal savings association borrowed, purchased subject to resale or received as collateral from the counterparty for those transactions ( $\Sigma C_i$ ), in accordance with the following formula:

$$E^* = \max \{0, [\Sigma E_i - \Sigma C_i]\}$$

(G) If a national bank or Federal savings association acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided.

(H) The credit equivalent amount of all off-balance sheet exposures of the

national bank or Federal savings association, excluding repo-style transactions and derivatives, determined using the applicable credit conversion factor under § 3.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent.

(I) Requirements for a national bank or Federal savings association that is a clearing member:

(1) A clearing member national bank or Federal savings association that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its exposure to the clearing member client as a derivative contract for purposes of determining its total leverage exposure.

(2) A clearing member national bank or Federal savings association that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract for purposes of determining its total leverage exposure. A clearing member national bank or Federal savings association that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure.

\* \* \* \* \*

■ 4. Section 3.172 is amended by adding paragraph (d) to read as follows:

**§ 3.172 Disclosure requirements.**

\* \* \* \* \*

(d) Except as otherwise provided in paragraph (b) of this section, an advanced approaches national bank or Federal savings association must publicly disclose each quarter its supplementary leverage ratio and its components as calculated under subpart B of this part in compliance with

paragraph (c) of this section; provided, however, the disclosures required under this paragraph are required without regard to whether the national bank or Federal savings association has completed the parallel run process and has received notification from the OCC pursuant to § 3.121(d).

■ 5. Section 3.173 is amended by:

■ a. Revising the introductory text of paragraph (a); and

■ b. Adding paragraph (c) and Table 13 to § 3.173.

The revision and additions are set forth below.

**§ 3.173 Disclosures by certain advanced approaches national banks and Federal savings associations.**

(a) Except as provided in § 3.172(b), a national bank or Federal savings association described in § 3.172(b) must make the disclosures described in Tables 1 through 13 to § 3.173. The national bank or Federal savings association must make the disclosures required under Tables 1 through 12 publicly available for each of the last three years (that is, twelve quarters) or such shorter period beginning on January 1, 2014. The national bank or Federal savings association must make the disclosures required under Table 13 publicly available beginning on January 1, 2015.

\* \* \* \* \*

(c) Except as provided in § 3.172(b), a national bank or Federal savings association described in § 3.172(d) must make the disclosure described in Table 13 to § 3.173; provided, however, the disclosures required under this paragraph are required without regard to whether the national bank or Federal savings association has completed the parallel run process and has received notification from the OCC pursuant to § 3.121(d). The national bank or Federal savings association must make these disclosures publicly available beginning on January 1, 2015.

TABLE 13 TO § 3.173

	Dollar amounts in thousands			
	Tril	Bil	Mil	Thou
<b>Part 1: Summary comparison of accounting assets and total leverage exposure</b>				
1 Total consolidated assets as reported in published financial statements.				
2 Adjustment for investments in banking, financial, insurance or commercial entities that are consolidated for accounting purposes but outside the scope of regulatory consolidation.				
3 Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure.				
4 Adjustment for derivative exposures.				
5 Adjustment for repo-style transactions.				
6 Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures).				
7 Other adjustments.				

TABLE 13 TO § 3.173—Continued

	Dollar amounts in thousands			
	Tril	Bil	Mil	Thou
8 Total leverage exposure.				
<b>Part 2: Supplementary leverage ratio</b>				
<b>On-balance sheet exposures</b>				
1 On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions).				
2 LESS: Amounts deducted from tier 1 capital.				
3 Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2).				
<b>Derivative exposures</b>				
4 Replacement cost for derivative exposures (that is, net of cash variation margin).				
5 Add-on amounts for potential future exposure (PFE) for derivatives exposures.				
6 Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin.				
7 LESS: Deductions of receivable assets for cash variation margin posted in derivatives transactions, if included in on-balance sheet assets.				
8 LESS: Exempted CCP leg of client-cleared transactions.				
9 Effective notional principal amount of sold credit protection.				
10 LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection.				
11 Total derivative exposures (sum of lines 4 to 10).				
<b>Repo-style transactions</b>				
12 On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities sold under a repo-style arrangement.				
13 LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements.				
14 Counterparty credit risk for all repo-style transactions.				
15 Exposure for repo-style transactions where a banking organization acts as an agent.				
16 Total exposures for repo-style transactions (sum of lines 12 to 15).				
<b>Other off-balance sheet exposures</b>				
17 Off-balance sheet exposures at gross notional amounts.				
18 LESS: Adjustments for conversion to credit equivalent amounts.				
19 Off-balance sheet exposures (sum of lines 17 and 18).				
<b>Capital and total leverage exposure</b>				
20 Tier 1 capital.				
21 Total leverage exposure (sum of lines 3, 11, 16 and 19).				
<b>Supplementary leverage ratio</b>				
22 Supplementary leverage ratio .....				(in percent)

Board of Governors of the Federal Reserve System

12 CFR Chapter II  
Authority and Issuance

For the reasons set forth in the preamble, part 217 of chapter II of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

**PART 217—CAPITAL ADEQUACY OF BOARD-RELATED INSTITUTIONS**

■ 6. The authority citation for part 217 continues to read as follows:

**Authority:** 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

■ 7. In § 217.2, revise the definition of “total leverage exposure” to read as follows:

**§ 217.2 Definitions.**

\* \* \* \* \*

*Total leverage exposure* is defined in § 217.10(c)(4)(ii).

\* \* \* \* \*

■ 8. Revise § 217.10(c)(4) to read as follows:

**§ 217.10 Minimum capital requirements.**

\* \* \* \* \*

(c) \* \* \*

(4) *Supplementary leverage ratio.* (i) An advanced approaches Board-regulated institution's supplementary leverage ratio is the ratio of its tier 1 capital calculated as of the last day of each reporting quarter to total leverage exposure calculated as the arithmetic mean of the total leverage exposure calculated as of each day of the reporting quarter, using the applicable deductions under § 217.22(a), (c), and (d) as of the last day of the previous reporting quarter.

(ii) For purposes of this part, *total leverage exposure* means the sum of the items described as follows in paragraphs (c)(4)(ii)(A) through (H) of this section, as adjusted by any applicable requirement for a clearing member Board-regulated institution described in paragraph (c)(4)(ii)(I):

(A) The balance sheet carrying value of all of the Board-regulated institution's on-balance sheet assets, *plus* the value of securities sold under a repo-style arrangement that are not included on balance sheet, *less* amounts deducted from tier 1 capital under § 217.22 (a), (c), and (d), and *less* the value of securities received in security-for-security repo-style transactions, where the Board-regulated institution acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received;

(B) The PFE for each derivative contract (including cleared transactions except as provided in paragraph (c)(4)(ii)(I) of this section) to which the Board-regulated institution is a counterparty (or each single-product netting set of such transactions) as determined under § 217.34, but without regard to § 217.34(b). A Board-regulated institution may choose to adjust the PFE for all credit derivatives or other similar instruments through which it provides credit protection, as included in paragraph (c)(4)(ii)(D) of this section, when calculating the PFE under § 217.34, but without regard to § 217.34(b), provided that it does not adjust the net-to-gross ratio (NGR). A Board-regulated institution that makes such election must do so consistently over time for the calculation of the PFE for all credit derivative contracts or similar instruments through which it provides credit protection;

(C) The amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the banking organization's on-balance sheet assets, except if such cash collateral is all or

part of variation margin that satisfies the following requirements in paragraphs (c)(4)(ii)(C)(1) through (5) of this section. Cash variation margin that satisfies the requirements in paragraphs (c)(4)(ii)(C)(1) through (5) of this section may only be used to reduce the current credit exposure of the derivative contract, calculated as described in § 217.34(a), and not the PFE. In the calculation of the NGR described in § 217.34(a)(2)(ii)(B), cash variation margin that satisfies the requirements in paragraphs (c)(4)(ii)(C)(1) through (5) of this section may not reduce the net current credit exposure or the gross current credit exposure.

(1) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated;

(2) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;

(3) The variation margin transferred under the derivative contract or the governing rules for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contract, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(4) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract. For purposes of this paragraph, currency of settlement means any currency for settlement specified in the governing qualifying master netting agreement, the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and

(5) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction. The qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(D) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the

Board-regulated institution provides credit protection, provided that:

(1) The Board-regulated institution may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(2) The Board-regulated institution may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a purchased credit derivative, or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the Board-regulated institution provides credit protection and that:

(i) With respect to a credit derivative that references a single exposure, the reference exposure of the purchased credit derivative is to the same legal entity and ranks *pari passu* with, or is junior to, the reference exposure of the credit derivative through which the Board-regulated institution provides credit protection; or

(ii) With respect to a credit derivative that references multiple exposures, such as securitization exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank *pari passu* with the reference exposures of the credit derivative through which the Board-regulated institution provides credit protection, and the level of seniority of the purchased credit derivative ranks *pari passu* to the level of seniority of the credit derivative under which the Board-regulated institution provides credit protection.

(iii) Where a Board-regulated institution has reduced the effective notional principal amount of a credit derivative through which the Board-regulated institution provides credit protection in accordance with paragraph (c)(4)(ii)(D)(1) of this section, the Board-regulated institution must also reduce the effective notional principal amount of a purchased credit derivative, used to offset the credit derivative through which the Board-regulated institution provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(iv) Where the Board-regulated institution purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the Board-regulated institution provides credit

protection in net income, but does not record offsetting deterioration in the mark-to-fair value of the credit derivative through which the Board-regulated institution provides credit protection in net income (either through reductions in fair value or by additions to reserves), the Board-regulated institution may not use the purchased credit protection to offset the effective notional principal amount of the credit derivative through which the Board-regulated institution provides credit protection.

(E) Where a Board-regulated institution acting as a principal has more than one repo-style transaction with the same counterparty and has applied the GAAP offset for repo-style transactions, and the criteria in paragraphs (c)(4)(ii)(E)(1) through (c)(4)(ii)(E)(3) of this section are not satisfied, the gross value of receivables associated with the repo-style transactions less any on-balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(4)(ii)(A) of this section.

(1) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(2) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(3) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement. That is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date. To achieve this result, both transactions must be settled through the same settlement system and the settlement arrangements must be supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement.

(F) The counterparty credit risk of a repo-style transaction, including where the Board-regulated institution acts as an agent for a repo-style transaction, calculated as follows:

(1) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) for

transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction  $i$  is treated as its own netting set, in accordance with the following formula, where  $E_i$  is the fair value of the instruments, gold, or cash that the Board-regulated institution has lent, sold subject to repurchase, or provided as collateral to the counterparty, and  $C_i$  is the fair value of the instruments, gold, or cash that the Board-regulated institution has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$$E_i^* = \max \{0, [E_i - C_i]\}; \text{ and}$$

(2) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the Board-regulated institution has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in the qualifying master netting agreement ( $\Sigma E_i$ ), less the total fair value of the instruments, gold, or cash that the Board-regulated institution borrowed, purchased subject to resale or received as collateral from the counterparty for those transactions ( $\Sigma C_i$ ), in accordance with the following formula:

$$E^* = \max \{0, [\Sigma E_i - \Sigma C_i]\}$$

(G) If a Board-regulated institution acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided.

(H) The credit equivalent amount of all off-balance sheet exposures of a Board-regulated institution, excluding repo-style transactions and derivatives, determined using the applicable credit conversion factor under § 217.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent.

(I) Requirements for a Board-regulated institution that is a clearing member:

(1) A clearing member Board-regulated institution that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its exposure to the clearing member client as a derivative contract for purposes of determining its total leverage exposure.

(2) A clearing member Board-regulated institution that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract for purposes of determining its total leverage exposure. A clearing member Board-regulated institution that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure.

\* \* \* \* \*

■ 9. Amend § 217.172 by adding a new paragraph (d) to read as follows:

**§ 217.172 Disclosure requirements.**

\* \* \* \* \*

(d) Except as otherwise provided in § 217.2 (b), an advanced approaches Board-regulated institution must publicly disclose each quarter its supplementary leverage ratio and its components as calculated under subpart B of this part in compliance with paragraph (c) of this section; provided, however, the disclosures required under this paragraph are required without regard to whether the Board-regulated institution has completed the parallel run process and has received notification from the Board pursuant to § 217.121(d).

■ 10. Amend § 217.173 by adding a new paragraph (c) and Table 13 to § 217.173 to read as follows:

**§ 217.173 Disclosures by certain advanced approaches Board-regulated institutions.**

\* \* \* \* \*

(c) Except as otherwise provided in § 217.172(b), a Board-regulated institution described in § 217.172(d) must make the disclosures described in Table 13 to § 217.173; provided, however, the disclosures required under this paragraph are required without regard to whether the Board-regulated institution has completed the parallel run process and has received notification from the Board pursuant to § 217.121(d). The Board-regulated institution must make these disclosures publicly available beginning on January 1, 2015.

TABLE 13 TO § 217.173—SUPPLEMENTARY LEVERAGE RATIO

	Dollar amounts in thousands			
	Tril	Bil	Mil	Thou
<b>Part 1: Summary comparison of accounting assets and total leverage exposure</b>				
1 Total consolidated assets as reported in published financial statements.				
2 Adjustment for investments in banking, financial, insurance or commercial entities that are consolidated for accounting purposes but outside the scope of regulatory consolidation.				
3 Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure.				
4 Adjustment for derivative exposures.				
5 Adjustment for repo-style transactions.				
6 Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures).				
7 Other adjustments.				
8 Total leverage exposure.				
<b>Part 2: Supplementary leverage ratio</b>				
On-balance sheet exposures				
1 On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions).				
2 LESS: Amounts deducted from tier 1 capital.				
3 Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2).				
<b>Derivative exposures</b>				
4 Replacement cost for derivative exposures (that is, net of cash variation margin).				
5 Add-on amounts for potential future exposure (PFE) for derivatives exposures.				
6 Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin.				
7 LESS: Deductions of receivable assets for cash variation margin posted in derivatives transactions, if included in on-balance sheet assets.				
8 LESS: Exempted CCP leg of client-cleared transactions.				
9 Effective notional principal amount of sold credit protection.				
10 LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection.				
11 Total derivative exposures (sum of lines 4 to 10).				
<b>Repo-style transactions</b>				
12 On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities sold under a repo-style arrangement.				
13 LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements.				
14 Counterparty credit risk for all repo-style transactions.				
15 Exposure for repo-style transactions where a banking organization acts as an agent.				
16 Total exposures for repo-style transactions (sum of lines 12 to 15).				
<b>Other off-balance sheet exposures</b>				
17 Off-balance sheet exposures at gross notional amounts.				
18 LESS: Adjustments for conversion to credit equivalent amounts.				
19 Off-balance sheet exposures (sum of lines 17 and 18).				
<b>Capital and total leverage exposure</b>				
20 Tier 1 capital.				
21 Total leverage exposure (sum of lines 3, 11, 16 and 19).				
<b>Supplementary leverage ratio</b>				
22 Supplementary leverage ratio .....	(in percent)			

*Federal Deposit Insurance Corporation*

## 12 CFR Chapter III

## Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend part 324 of chapter III of Title 12, Code of Federal Regulations as follows:

**PART 324—CAPITAL ADEQUACY**

■ 11. The authority citation for part 324 continues to read as follows:

**Authority:** 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note).

■ 12. In § 324.2, revise the definition of “total leverage exposure” to read as follows:

**§ 324.2 Definitions.**

\* \* \* \* \*

*Total leverage exposure* is defined in § 324.10(c)(4)(ii).

\* \* \* \* \*

■ 13. Revise § 324.10(c)(4) to read as follows:

**§ 324.10 Minimum capital requirements.**

\* \* \* \* \*

(c) \* \* \*

(4) *Supplementary leverage ratio.* (i) An advanced approaches FDIC-supervised institution’s supplementary leverage ratio is the ratio of its tier 1 capital calculated as of the last day of each reporting quarter to total leverage exposure calculated as the arithmetic mean of the total leverage exposure calculated as of each day of the reporting quarter, using the applicable deductions under § 324.22(a), (c), and (d) as of the last day of the previous reporting quarter.

(ii) For purposes of this part, *total leverage exposure* means the sum of the items described as follows in paragraphs (c)(4)(ii)(A) through (H) of this section, as adjusted by any applicable requirement for clearing member FDIC-supervised institutions described in paragraph (c)(4)(ii)(I):

(A) The balance sheet carrying value of all of the FDIC-supervised institution’s on-balance sheet assets, plus the value of securities sold under a repo-style arrangement that are not included on-balance sheet, less amounts deducted from tier 1 capital under

§ 324.22(a), (c), and (d), and less the value of securities received in security-for-security repo-style transactions, where the FDIC-supervised institution acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received;

(B) The PFE for each derivative contract (including cleared transactions except as provided in paragraph (c)(4)(ii)(I) of this section) to which the FDIC-supervised institution is a counterparty (or each single-product netting set of such transactions) as determined under § 324.34, but without regard to § 324.34(b). An FDIC-supervised institution may choose to adjust the PFE for all credit derivatives or other similar instruments through which it provides credit protection, as included in paragraph (c)(4)(ii)(D) of this section, when calculating the PFE under § 324.34, but without regard to § 324.34(b), provided that it does not adjust the net-to-gross ratio (NGR). An FDIC-supervised institution that makes such election must do so consistently over time for the calculation of the PFE for all credit derivative contracts or similar instruments through which it provides credit protection;

(C) The amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the FDIC-supervised institution’s on-balance sheet assets, except if such cash collateral is all or part of variation margin that satisfies the following requirements in paragraphs (c)(4)(ii)(C)(1) through (5) of this section. Cash variation margin that satisfies the requirements in paragraphs (c)(4)(ii)(C)(1) through (5) of this section may only be used to reduce the current credit exposure of the derivative contract, calculated as described in section 324.34(a)(2)(ii)(B), and not the PFE. In the calculation of the NGR described in § 324.34(a)(2)(ii)(B), cash variation margin that satisfies the requirements in paragraphs (a)(2)(ii)(C)(1) through (5) of this section may not reduce the net current credit exposure or the gross current credit exposure.

(1) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated;

(2) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;

(3) The variation margin transferred under the derivative contract or the governing rules for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(4) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph, currency of settlement means any currency for settlement specified in the governing qualifying master netting agreement and the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and

(5) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction. The qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(D) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the FDIC-supervised institution provides credit protection, provided that:

(1) The FDIC-supervised institution may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(2) The FDIC-supervised institution may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a purchased credit derivative or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the FDIC-supervised institution provides credit protection and that:

(i) With respect to a credit derivative that references a single exposure, the

reference exposure of the purchased credit derivative is to the same legal entity and ranks *pari passu* with, or is junior to, the reference exposure of the credit derivative through which the FDIC-supervised institution provides credit protection; or

(ii) With respect to a credit derivative that references multiple exposures, such as securitization exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank *pari passu* with the reference exposures of the credit derivative through which the FDIC-supervised institution provides credit protection, and the level of seniority of the purchased credit derivative ranks *pari passu* to the level of seniority of the credit derivative through which the FDIC-supervised institution provides credit protection.

(iii) Where an FDIC-supervised institution has reduced the effective notional amount of a credit derivative through which the FDIC-supervised institution provides credit protection in accordance with paragraph (c)(4)(ii)(D)(1) of this section, the FDIC-supervised institution must also reduce the effective notional principal amount of a purchased credit derivative, used to offset the credit derivative through which the FDIC-supervised institution provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(iv) Where the FDIC-supervised institution purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the FDIC-supervised institution provides credit protection in net income, but does not record offsetting deterioration in the mark-to-fair value of the credit derivative through which the FDIC-supervised institution provides credit protection in net income (either through reductions in fair value or by additions to reserves), the FDIC-supervised institution may not use the purchased credit protection to offset the effective notional principal amount of the related credit derivative through which the FDIC-supervised institution provides credit protection.

(E) Where an FDIC-supervised institution acting as a principal has more than one repo-style transaction with the same counterparty and has applied the GAAP offset for repo-style transactions, and the criteria in paragraphs (c)(4)(ii)(E)(1) through (3) of this section are not satisfied, the gross value of receivables associated with the repo-style transactions *less* any on-

balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(4)(ii)(A) of this section.

(1) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(2) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(3) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement. That is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date. To achieve this result, both transactions must be settled through the same settlement system and the settlement arrangements must be supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement.

(F) The counterparty credit risk of a repo-style transaction, including where the FDIC-supervised institution acts as an agent for a repo-style transaction, calculated as follows:

(1) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) for transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction  $i$  is treated as its own netting set, in accordance with the following formula, where  $E_i$  is the fair value of the instruments, gold, or cash that the FDIC-supervised institution has lent, sold subject to repurchase, or provided as collateral to the counterparty, and  $C_i$  is the fair value of the instruments, gold, or cash that the FDIC-supervised institution has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$$E_i^* = \max \{0, [E_i - C_i]\}; \text{ and}$$

(2) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the FDIC-supervised institution has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in the qualifying master netting agreement ( $\Sigma E_i$ ), *less* the total

fair value of the instruments, gold, or cash that the FDIC-supervised institution borrowed, purchased subject to resale or received as collateral from the counterparty for those transactions ( $\Sigma C_i$ ), in accordance with the following formula:

$$E^* = \max \{0, [\Sigma E_i - \Sigma C_i]\}$$

(G) If an FDIC-supervised institution acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided.

(H) The credit equivalent amount of all off-balance sheet exposures of the FDIC-supervised institution, excluding repo-style transactions and derivatives, determined using the applicable credit conversion factor under § 324.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent.

(I) Requirements for an FDIC-supervised institution that is a clearing member:

(1) A clearing member FDIC-supervised institution that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its exposure to the clearing member client as a derivative contract for purposes of determining its total leverage exposure.

(2) A clearing member FDIC-supervised institution that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract for purposes of determining its total leverage exposure. A clearing member FDIC-supervised institution that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure.

■ 14. Section 324.172 is amended by adding paragraph (d) to read as follows:

**§ 324.172 Disclosure requirements.**

\* \* \* \* \*

(d) Except as otherwise provided in paragraph (b) of this section, an

advanced approaches FDIC-supervised institution must publicly disclose each quarter its supplementary leverage ratio and its components as calculated under subpart B of this part in compliance with paragraph (c) of this section; provided, however, the disclosures required under this paragraph are required without regard to whether the FDIC-supervised institution has completed the parallel run process and has received notification from the FDIC pursuant to § 324.121(d).

- 15. Amend § 324.173 as follows:
  - a. Revise the introductory text of paragraph (a); and
  - b. Add paragraph (c) and Table 13 to § 3.173.

The revision and additions are set forth below.

**§ 324.173 Disclosures by certain advanced approaches FDIC-supervised institutions.**

(a) Except as provided in § 324.172(b), an FDIC-supervised institution described in § 324.172(b) must make the disclosures described in Tables 1 through 13 to § 324.173. The FDIC-supervised institution must make the disclosures required under Tables 1 through 12 publicly available for each of the last three years (that is, twelve quarters) or such shorter period beginning on January 1, 2014. The FDIC-supervised institution must make the disclosures required under Table 13

publicly available beginning on January 1, 2015.

\* \* \* \* \*

(c) Except as provided in § 324.172(b), an FDIC-supervised institution described in § 324.172(d) must make the disclosures described in Table 13 to § 324.173; provided, however, the disclosures required under this paragraph are required without regard to whether the FDIC-supervised institution has completed the parallel run process and has received notification from the FDIC pursuant to § 324.121(d). The FDIC-supervised institution must make these disclosures publicly available beginning on January 1, 2015.

**TABLE 13 TO § 324.173 SUPPLEMENTARY LEVERAGE RATIO**

	Dollar amounts in thousands			
	Tril	Bil	Mil	Thou
<b>Part 1: Summary comparison of accounting assets and total leverage exposure</b>				
1 Total consolidated assets as reported in published financial statements.				
2 Adjustment for investments in banking, financial, insurance or commercial entities that are consolidated for accounting purposes but outside the scope of regulatory consolidation.				
3 Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure.				
4 Adjustment for derivative exposures.				
5 Adjustment for repo-style transactions.				
6 Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures).				
7 Other adjustments.				
8 Total leverage exposure.				
<b>Part 2: Supplementary leverage ratio</b>				
<b>On-balance sheet exposures</b>				
1 On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions).				
2 LESS: Amounts deducted from tier 1 capital.				
3 Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2).				
<b>Derivative exposures</b>				
4 Replacement cost for derivative exposures (that is, net of cash variation margin).				
5 Add-on amounts for potential future exposure (PFE) for derivatives exposures.				
6 Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin.				
7 LESS: Deductions of receivable assets for cash variation margin posted in derivatives transactions, if included in on-balance sheet assets.				
8 LESS: Exempted CCP leg of client-cleared transactions.				
9 Effective notional principal amount of sold credit protection.				
10 LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection.				
11 Total derivative exposures (sum of lines 4 to 10).				
<b>Repo-style transactions</b>				
12 On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities sold under a repo-style arrangement.				
13 LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements.				
14 Counterparty credit risk for all repo-style transactions.				

TABLE 13 TO § 324.173 SUPPLEMENTARY LEVERAGE RATIO—Continued

	Dollar amounts in thousands			
	Tril	Bil	Mil	Thou
15 Exposure for repo-style transactions where a banking organization acts as an agent.				
16 Total exposures for repo-style transactions (sum of lines 12 to 15).				
<b>Other off-balance sheet exposures</b>				
17 Off-balance sheet exposures at gross notional amounts.				
18 LESS: Adjustments for conversion to credit equivalent amounts.				
19 Off-balance sheet exposures (sum of lines 17 and 18).				
<b>Capital and total leverage exposure</b>				
20 Tier 1 capital.				
21 Total leverage exposure (sum of lines 3, 11, 16 and 19).				
<b>Supplementary leverage ratio</b>				
22 Supplementary leverage ratio .....	(in percent)			

Dated: April 8, 2014.  
**Thomas J. Curry,**  
*Comptroller of the Currency.*  
 By Order of the Board of Governors of the Federal Reserve System, April 10, 2014.  
**Robert deV. Frierson,**  
*Secretary of the Board.*  
 Dated at Washington, DC, this 8th day of April, 2014.  
 By order of the Board of Directors.  
 Federal Deposit Insurance Corporation.  
**Robert E. Feldman,**  
*Executive Secretary.*  
 [FR Doc. 2014-09357 Filed 4-30-14; 8:45 am]  
**BILLING CODE P**

**DEPARTMENT OF TREASURY**  
**Office of the Comptroller of the Currency**

**12 CFR Part 3**  
**[Docket ID OCC-2014-0012]**  
**RIN 1557-AD83**

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 217**  
**[Docket No. R-1488; Regulation Q]**  
**RIN 7100 AE17**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 324**  
**RIN 3064-AE13**

**Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rule, Proposed Revisions to the Definition of Eligible Guarantee**

**AGENCY:** Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

**ACTION:** Joint notice of proposed rulemaking.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) are seeking comment on a notice of proposed rulemaking (proposed rule) that would revise the definition of eligible guarantee as incorporated into the

agencies' advanced approaches risk-based capital rule, adopted in the agencies' July 2013 regulatory capital rule (2013 capital rule).

The agencies inadvertently limited the recognition of guarantees of wholesale exposures under the advanced approaches risk-based capital rule as incorporated into subpart E of the 2013 capital rule (advanced approaches). To address this matter, the proposed rule would remove the requirement that an eligible guarantee be made by an eligible guarantor for purposes of calculating the risk-weighted assets of an exposure (other than a securitization exposure) under the advanced approaches. The proposed change to the definition of eligible guarantee would apply to all banks, savings associations, bank holding companies, and savings and loan holding companies that are subject to the advanced approaches.

**DATES:** Comments must be received no later than June 13, 2014.

**ADDRESSES:** Comments should be directed to:

OCC: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Please use the title "Regulatory Capital Rules: Regulatory Capital, Proposed Revisions to the Definition of Eligible Guarantee" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- **Federal eRulemaking Portal—“regulations.gov”:** Go to <http://www.regulations.gov>. Enter “Docket ID OCC-2014-0012” in the Search Box and click “Search”. Results can be filtered