

FEDERAL RESERVE SYSTEM**12 CFR Parts 217, 225, and 252**

[Regulations Q, Y, and YY; Docket No. R-1603]

RIN 7100-AF 02

Amendments to the Regulatory Capital, Capital Plan, and Stress Test Rules**AGENCY:** Board of Governors of the Federal Reserve System (Board).**ACTION:** Notice of proposed rulemaking with request for comment.

SUMMARY: The Board is inviting comment on a notice of proposed rulemaking (proposal) that would integrate the Board's regulatory capital rule (capital rule) and the Board's Comprehensive Capital Analysis and Review (CCAR) and stress test rules in order to simplify the capital regime applicable to firms subject to the capital plan rule. The proposal would amend the Board's capital plan rule, capital rule, and stress testing rules, and make amendments to the Stress Testing Policy Statement that was proposed for public comment on December 15, 2017. Under the proposal, the Board's supervisory stress test would be used to establish the size of a stress capital buffer requirement and a stress leverage buffer requirement. The proposal would apply to bank holding companies with \$50 billion or more in total consolidated assets and U.S. intermediate holding companies of foreign banking organizations established pursuant to Regulation YY. The proposal would not apply to any community bank, any bank holding company with total consolidated assets of less than \$50 billion, or to any state member bank or savings and loan holding company. The proposal would be effective on December 31, 2018. Under the proposal, a firm's first stress capital buffer and stress leverage buffer requirements would generally be effective on October 1, 2019.

DATES: Comments must be received by June 25, 2018.**ADDRESSES:** You may submit comments, identified by [Docket No. R-1603 and RIN 7100-AF 02] by any of the following methods:

- *Agency Website:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.aspx>.
- *Email:* regs.comments@federalreserve.gov. Include the docket number and RIN number in the subject line of the message.

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

- *Mail:* Address to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments will be made available on the Board's website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.aspx> as submitted, unless modified for technical reasons or to remove sensitive PII at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Lisa Ryu, Associate Director, (202) 263-4833, Constance Horsley, Deputy Associate Director, (202) 452-5239, (202) 475-6316, Juan Climent, Manager (202) 872-7526, Christine Graham, Senior Supervisory Financial Analyst, (202) 452-3005, Page Conkling, Senior Supervisory Financial Analyst, (202) 912-4647, Joseph Cox, Senior Supervisory Financial Analyst, (202) 452-3216, or Hillel Kipnis, Senior Financial Analyst, (202) 452-2924, Division of Banking Supervision and Regulation; Benjamin W. McDonough, Assistant General Counsel, (202) 452-2036, Julie Anthony, Counsel, (202) 475-6682, Mark Buresh, Senior Attorney, (202) 452-5270, Asad Kudiya, Senior Attorney, (202) 475-6358, or Mary Watkins, Attorney, (202) 452-3722, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263-4869.

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I. Background and Summary of the Proposal**A. Description of the Capital Plan and Capital Rules**

The resiliency of large financial institutions is critical to the stability of the financial sector. As shown in the 2007-2008 financial crisis, problems at large financial institutions can lead to significant market disruption, spread rapidly throughout the financial system, and cause a credit crunch, worsening economic downturns. To be resilient, a financial institution must maintain sufficient levels of capital to support the risks associated with its exposures and activities. In the years leading up to the financial crisis, neither the regulatory capital regime nor financial institutions' own models sufficiently captured the actual risk exposures of financial institutions, resulting in a level of capital that was inadequate to cover losses as conditions deteriorated, putting the economic activity at risk.

The risks to the ability of the financial system to support economic growth were exacerbated by actions taken by firms during the crisis. Rather than conserve loss-absorbing resources, many firms continued to distribute capital to shareholders in an attempt to reassure the market of their health and resiliency. Further, the lack of transparency into firms' actual risk profiles during the crisis increased uncertainty, left counterparties unable to distinguish between healthy and unhealthy banks, and prompted a large and sudden reaction from the markets as the full scale of risks was revealed. The systematic loss of confidence in the banking sector that ensued led to sharply tighter credit conditions for businesses and households and caused extreme strains in crucial markets; the economic consequences prompted

public sector intervention by the Congress, U.S. Treasury, Board,¹ and Federal Deposit Insurance Corporation to avoid further deterioration and restore economic activity.

At the height of the crisis, the Board turned to stress testing, under the Supervisory Capital Assessment Program (SCAP), to determine potential losses at the largest firms if the prevailing stress severely worsened and to restore confidence in the financial sector.² Building on the success of the SCAP, the Board introduced the current stress testing regime and CCAR to assess whether the largest firms have sufficient capital to continue to lend and absorb potential losses under severely adverse conditions, and to ensure that they have sound, forward-looking capital planning practices.³ The Board publishes the results of its stress tests and assessment of firms' capital planning practices, which enhances market discipline.

The Board adopted the capital plan rule in 2011, which requires each bank holding company with \$50 billion or more in total consolidated assets to submit an annual capital plan to the Board.⁴ The Board may limit a firm's capital distributions under the rule if the Board finds deficiencies in the firm's capital plan or pro forma post-stress level of capital.⁵ As part of CCAR, the Board evaluates the ability of each of the largest bank holding companies to maintain capital above minimum regulatory capital requirements under expected and stressful conditions, assuming that a firm makes all planned

capital actions (for example, dividends, capital issuances, and repurchases of capital instruments) that are in its capital plan (supervisory post-stress capital assessment).

Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires the Board to adopt enhanced capital standards, including supervisory stress tests, company-run stress tests, and enhanced risk-based and leverage capital requirements, for bank holding companies with total consolidated assets of \$50 billion or more. The enhanced prudential standards that the Board adopts pursuant to section 165 must increase in stringency based on the systemic importance of the firm. The Board's supervisory stress test conducted pursuant to the Dodd-Frank Act evaluates whether firms have sufficient capital to continue operations throughout times of economic and financial stress using firm-provided data and a common set of scenarios, models, and assumptions.⁶ In the company-run stress tests, firms use the same scenarios that the Board uses to conduct the supervisory stress tests.

Similar to the Board's capital planning and stress testing rules, the Board's capital rule also addresses weaknesses observed during the 2007–2008 financial crisis. In 2013, the Board adopted a final rule that revised the Board's risk-based and leverage capital requirements for firms.⁷ The revisions to the Board's capital rule strengthened the quality and quantity of capital held by firms by implementing, among other changes, a new minimum common equity tier 1 (CET1) capital requirement, a higher minimum tier 1 capital requirement, and capital buffer requirements above the minimum requirements. A firm must maintain risk-based capital ratios in excess of the minimum plus buffer requirements in order to avoid limitations on capital distributions and certain discretionary bonus payments.⁸ In addition, the Board adopted a supplementary leverage ratio that measures capital against on- and off-balance sheet exposures for firms with total consolidated assets greater than or equal to \$250 billion or total consolidated on-balance sheet foreign exposures of at least \$10 billion, or that

otherwise meet the conditions set forth in 12 CFR 217.100(b).⁹

In July 2015, the Board adopted the GSIB surcharge rule as part of its implementation of section 165 of the Dodd-Frank Act.¹⁰ The GSIB surcharge rule establishes the criteria for identifying a GSIB and the methods that those firms must use to calculate a risk-based capital surcharge, which is calibrated to each firm's overall systemic risk and which expands the capital conservation buffer requirement for these firms.¹¹

Strengthening the regulatory capital regime, including the introduction of capital planning and stress testing requirements, has been an important supervisory response to the financial crisis. Stress testing makes the capital regime more forward-looking, risk-sensitive, and firm-specific. As a result of this program and the enhancements made to the Board's regulatory capital regime, large U.S. bank holding companies are much more resilient to stress than in the past. Common equity capital levels among the nation's largest bank holding companies have risen by over \$720 billion since 2009, making U.S. firms among the strongest in the world.¹²

B. Review of Capital Planning and Stress Testing Programs

The Board periodically reevaluates its programs to ensure that they remain effective and that unintended consequences are minimized. Accordingly, the Board has reviewed the CCAR program to assess its effectiveness and to identify any areas that should be refined (CCAR review). The CCAR review included an internal assessment as well as a series of feedback meetings with outside parties. The participants in such meetings included senior management from firms currently subject to the capital plan rule, debt and equity market analysts,

⁹ 12 CFR part 217.

¹⁰ 12 CFR part 217, subpart H; 80 FR 49082 (August 14, 2015).

¹¹ In addition, a GSIB must maintain a supplementary leverage ratio in excess of 5 percent in order to avoid limitations on capital distributions and discretionary bonus payments. 79 FR 24528 (May 1, 2014) (*revised* 80 FR 49082 (August 14, 2015)).

The Board expects to release a proposal that would recalibrate the enhanced supplementary leverage ratio standards for GSIBs and their state member bank insured depository institution subsidiaries. The proposal would set the enhanced supplementary leverage ratio standards to 3 percent plus one half of the GSIB surcharge applicable to the bank holding company. That proposal would amend the Board's capital rule, as well as make conforming changes to the Board's total loss-absorbing capacity rule.

¹² Staff calculations based on the Consolidated Financial Statements for Holding Companies.

¹ References to the Board in this preamble may also refer to the Federal Reserve.

² SCAP applied to domestic bank holding companies with \$100 billion or more in total consolidated assets.

³ The changes in this proposal would apply to bank holding companies with total consolidated assets of \$50 billion or more, any nonbank financial company supervised by the Board that becomes subject to the capital planning requirements pursuant to a rule or order of the Board, and to U.S. intermediate holding companies established pursuant to the Board's Regulation YY (12 CFR part 252) in accordance with the transition provisions under the capital plan rule. Currently, no nonbank financial companies supervised by the Board are subject to the capital planning requirements. References to "bank holding companies" or "firms" in this preamble should be read to include all of these companies, unless otherwise specified.

⁴ See 12 CFR 225.8. A firm's capital plan must include (i) an assessment of the expected uses and sources of capital over the planning horizon; (ii) a detailed description of the firm's processes for assessing capital adequacy; (iii) the firm's capital policy; and (iv) a discussion of any expected changes to the firm's business plan that could materially affect its capital adequacy. A firm may be required to include other information and analysis relevant to its capital planning processes and internal capital adequacy assessment.

⁵ 12 CFR 225.8(f). As discussed below, a large and noncomplex firm is no longer subject to the qualitative assessment in CCAR.

⁶ The supervisory post-stress capital assessment in CCAR is based on the supervisory stress test conducted pursuant to the Dodd-Frank Act.

⁷ 78 FR 62018 (October 11, 2013), adopted as 12 CFR part 217 (Regulation Q) and subsequently amended.

⁸ The limitations apply to discretionary bonus payments made to executive officers of a banking organization.

representatives from public interest groups, and academics in the fields of economics and finance. The Board also examined the interaction between the capital rule and its capital planning and stress testing rules.

Some participants in the CCAR review expressed support for increasing post-stress capital requirements by the amount of the GSIB surcharge and countercyclical capital buffer amount, arguing that such buffer requirements are intended to further macroprudential and countercyclical objectives in a manner that is not currently addressed directly in the supervisory post-stress capital assessment. On the other hand, some participants argued it would not be appropriate to increase post-stress minimum requirements by the GSIB surcharge because it would treat the GSIB surcharge as a minimum capital requirement rather than as a buffer as intended in the capital rule and because the supervisory post-stress capital assessment already includes scenario components that, historically, were only applicable to GSIBs.¹³

Participants in the CCAR review also raised concerns about the interactions between the capital rule and the supervisory post-stress capital assessment. The supervisory post-stress capital assessment includes an assumption that a firm makes all planned capital distributions, reflecting the historical experience from the financial crisis in which the largest banking organizations continued to repurchase shares and pay dividends to shareholders well after the financial system came under severe stress.¹⁴ Some participants in the CCAR review argued that the Board should not assume in the supervisory post-stress capital assessment that a firm continues to make all of its planned capital distributions if the capital distributions

would not be permitted under the capital rule.

Some participants in the CCAR review viewed other assumptions in the supervisory post-stress capital assessment as unrealistic and overly conservative. Since the 2014 CCAR cycle, in projecting a firm's balance sheet, the supervisory stress test has included the assumption that credit supply does not contract. This assumption furthered the Board's macroprudential objectives by evaluating whether firms could pass the supervisory post-stress capital assessment while continuing to lend and support the real economy. In implementing this assumption, the Board used a model calibrated to historical data that tended to project that a firm's balance sheet and risk-weighted assets would grow over the planning horizon, even in the severely adverse scenario.¹⁵ Some participants in the CCAR review argued that this assumption is overly conservative, and suggested that the Board modify this growth assumption to account for certain portfolios where it is unrealistic (such as legacy portfolios).

The Board received other feedback from participants in the CCAR review regarding changes to its processes associated with CCAR. For example, participants recommended further enhancing the transparency of the supervisory post-stress capital assessment and eliminating the heightened supervisory scrutiny of a capital plan that includes a dividend payout ratio of more than 30 percent.

C. Actions Following the CCAR Review

The Board has identified several areas where the capital plan rule and CCAR could be further refined or improved, including by reducing burden for non-GSIBs subject to CCAR; addressing the role of the GSIB surcharge in the supervisory post-stress capital assessment; addressing inconsistencies between the assumptions in the supervisory stress test and the distribution limitations in the capital rule; eliminating one or more post-stress capital ratio minimums in CCAR; and simplifying certain supervisory stress test assumptions.

In January 2017, the Board adopted a rule to reduce the burden associated with the qualitative aspects of CCAR for less complex firms. Under that rule,

firms that are not identified as GSIBs and that have average total consolidated assets of \$50 billion or more but less than \$250 billion and total nonbank assets of less than \$75 billion (large and noncomplex firms) are no longer subject to the provisions of the capital plan rule whereby the Board may object to a firm's capital plan on the basis of qualitative deficiencies in the firm's capital planning process.¹⁶

Additionally, in December 2017, the Board released a package of proposals that would increase the transparency of the supervisory stress test.¹⁷ The package included three proposals for public comment: (1) Enhanced model disclosure that would provide additional detail about the supervisory stress test models and how they function; (2) a Stress Testing Policy Statement that would provide the key principles and policies that govern the Board's approach to model development, implementation, use, and validation in the supervisory stress test; and (3) an amendment to the Board's Policy Statement on the Scenario Design Framework for Stress Testing (Scenario Design Policy Statement) that would make the scenario development process more countercyclical.

D. Summary of Proposal

The capital rule and capital plan rule each place separate limitations on firms' capital distributions to address the fact that many firms made significant distributions of capital in the lead up to and during the crisis without fully considering the effects that a prolonged economic downturn could have on their capital adequacy. Under the capital rule, a firm is subject to one or more buffer requirements above its minimum capital requirements and becomes subject to increasingly strict limitations on the distributions and bonus payments as its capital ratios decline below the buffer requirements toward the minimum capital requirements. Under the capital plan rule, a firm is required to follow the capital distributions included in its capital plan and, except in limited circumstances, seek the Board's approval before making additional capital distributions.¹⁸

¹³ The supervisory stress test includes a trading and counterparty component (the global market shock) and large counterparty default scenario component. Historically, the global market shock has included six U.S. GSIBs with significant trading activity. However, in December 2017, additional firms were identified as having "significant trading activity," and beginning in 2019, will be subject to the global market shock. The large counterparty default scenario component has been applied to the firms with the largest derivatives exposures and securities financing transaction activities, which to date, has included the eight U.S. GSIBs.

¹⁴ Beverly Hirtle, "Bank Holding Company Dividends and Repurchases during the Financial Crisis," FRBNY Staff Report, (April 2016), www.newyorkfed.org/medialibrary/media/research/staff_reports/sr666.pdf and Viral V. Acharya, Irwind Gujral, Nirupama Kulkarni, Hyun Song Shin, "Dividends and Bank Capital in the Financial Crisis of 2007–2009," (March 2011) NBER Working Paper No. 16896, www.nber.org/papers/w16896.

¹⁵ See the Board's letter regarding the Federal Reserve's independent balance sheet and risk-weighted asset projections (December 16, 2013) available at www.federalreserve.gov/bankinforeg/independent-projections-letter-20131216.pdf. This letter includes information on historical experiences of banking assets in past recessions.

¹⁶ The capital planning processes for these large and noncomplex firms would be evaluated through the regular supervisory process. See 81 FR 9308 (February 3, 2017).

¹⁷ See 82 FR 59529 (December 15, 2017).

¹⁸ The Board may object to the capital plan of a firm that does not demonstrate an ability to maintain capital levels above minimum regulatory capital requirements on a pro forma basis under expected and stressful conditions. A firm receiving such an objection can make only those capital distributions permitted by the Board. In assessing a firm's capital plan under the capital plan rule, the

The proposal would use the results of the annual supervisory stress test to size specific buffer requirements above minimum capital requirements that restrict capital distributions under the capital rule and establish a single approach to capital distribution limitations, effectively integrating the capital rule and the capital plan rule. Integrating the two capital regimes would simplify the Board's overall approach to capital regulation. The proposal would replace the static 2.5 percent of risk-weighted assets portion of the capital conservation buffer requirement under the standardized approach with a stress capital buffer requirement, which is forward-looking, risk-sensitive, and firm-specific. The proposal would also establish a stress leverage buffer requirement in addition to the minimum 4 percent tier 1 leverage ratio requirement.¹⁹

A firm would be required to maintain capital ratios above its minimum plus its buffer requirements in order to avoid restrictions on its capital distributions and discretionary bonus payments. A firm would be bound by the most stringent distribution limitations, if any, as determined by the firm's standardized approach capital conservation buffer requirement (as defined below), the firm's stress leverage buffer requirement and, if applicable, the firm's advanced approaches capital conservation buffer requirement and enhanced supplementary leverage ratio standard. The stress capital buffer and stress leverage buffer requirements (together, the stress buffer requirements) are described in greater detail in section II.

As noted, participants in the CCAR review observed an inconsistency between the distribution limitations of the capital rule and the distribution assumptions used in the supervisory post-stress capital assessment. To address this inconsistency, certain assumptions used in the supervisory stress test would be modified as part of the proposal. Specifically, in calculating the stress buffer requirements, the proposal would remove the current assumption that a firm would make all planned capital distributions over the planning horizon, including any planned common stock dividends and repurchases of common stock. Instead, the stress buffer requirements would include only four quarters of planned common stock dividends in order to

Federal Reserve assumes that the firm makes all planned capital actions (e.g. dividends and issuances and repurchases of capital instruments) even in the severely adverse scenario.

¹⁹ The leverage ratio is the ratio of a firm's tier 1 capital to its average total consolidated assets.

preserve the current incentives for a firm to engage in disciplined, forward-looking dividend planning. The stress buffer requirements would include dividends—but not repurchases—based on the experience in the recent financial crisis, when large bank holding companies began to reduce share repurchases early in the crisis but continued to pay dividends at nearly the pre-crisis rate through 2008.²⁰

In addition, the Board would also adjust the methodology used in the supervisory stress test to assume that the firm takes actions to maintain a constant level of assets, including loans, trading assets, and securities over the planning horizon. As a related matter, the Board would assume that a firm's risk-weighted assets and leverage ratio denominator generally remain unchanged over the planning horizon.²¹

The Board would further modify certain elements of CCAR to reflect the introduction of the proposed stress buffer requirements. Specifically, the proposal would remove the quantitative objection in CCAR and instead rely on the capital rule's automatic restrictions on capital distributions that are triggered if a firm breaches its buffer requirements. For firms subject to supervision by the Board's Large Institution Supervision Coordination Committee (LISCC firms) and other large and complex firms,²² the Board would retain the CCAR qualitative supervisory review and the ability to object to a firm's capital plan on qualitative grounds based on the adequacy of the firm's capital planning processes (qualitative objection).²³ The Board would also eliminate the 30 percent dividend payout ratio as a criterion for heightened scrutiny of a firm's capital

²⁰ Hirtle, Beverly, "Bank Holding Company Dividends and Repurchases during the Financial Crisis," FRBNY Staff Report, (April 2016), www.newyorkfed.org/medialibrary/media/research/staff_reports/sr666.pdf. And Viral V. Acharya, Irvind Gujral, Nirupama Kulkarni, Hyun Song Shin, "Dividends and Bank Capital in the Financial Crisis of 2007–2009," (March 2011) NBER Working Paper No. 16896, <http://www.nber.org/papers/w16896>.

²¹ The leverage ratio denominator is equal to the difference between projected total consolidated assets and amounts projected to be deducted from tier 1 capital under 12 CFR 217.22(a), (c), and (d).

²² A list of the current LISCC portfolio firms is available at www.federalreserve.gov/bankinforeg/large-institution-supervision.htm. Those LISCC firms that are currently subject to the capital plan rule are: Bank of America Corporation; The Bank of New York Mellon Corporation; Barclays PLC; Citigroup Inc.; Credit Suisse Group AG; Deutsche Bank AG; The Goldman Sachs Group, Inc.; JP Morgan Chase & Co.; Morgan Stanley; State Street Corporation; UBS AG; and Wells Fargo & Company. Large and complex firms include any bank holding company that has average total consolidated assets of at least \$250 billion or average total nonbank assets of at least \$75 billion.

²³ See 82 FR 9308 (February 3, 2017).

plan. Incorporating four quarters of planned common stock dividends in the stress buffer requirements would provide sufficient incentive for prudent dividend payouts.

The proposal would continue to require a firm to describe its planned capital distributions in its capital plan and not exceed those planned capital distributions. Further, as described in section III.B of this preamble, a firm's planned capital distributions would need to be consistent with the effective capital distribution limitations that would apply under the firm's own baseline financial projections (BHC baseline scenario).

As discussed in detail in section II.D of this preamble, the Board estimates that non-GSIBs subject to CCAR would generally need to hold less capital under the proposal, as compared with the current supervisory post-stress capital assessment in CCAR, which is the binding constraint for most of these firms. In contrast, the Board estimates based on the most recent CCAR results the proposal would generally maintain or in some cases increase CET1 capital requirements for GSIBs. However, the Board's estimates suggest that no firm that participated in recent CCAR exercises would need to raise additional capital in order to avoid the proposal's limitations on capital distributions. The impact of the proposal will vary throughout the economic cycle.

II. Proposed Stress Buffer Requirements

A. Introduction to the Stress Buffer Requirements

As a general matter, capital buffer requirements are designed to help ensure that a firm maintains an adequate amount of loss-absorbing capital to stay above minimum regulatory requirements during stress. The capital buffer requirements restrict a firm's ability to distribute capital as the firm's actual capital levels approach minimum ratios.²⁴ These requirements therefore strengthen the ability of individual firms and the banking system to continue to function and to serve as financial intermediaries in times of stress.

²⁴ Under the capital rule, a firm's maximum amount of capital distributions and certain discretionary bonus payments during the current calendar quarter are based on its applicable maximum payout ratio multiplied by the firm's eligible retained income. The maximum payout ratio declines as a firm's capital ratio approaches the minimum requirement. Eligible retained income is defined as net income attributable to the institution for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income.

Under the current capital rule, a firm's capital conservation buffer requirement is equal to 2.5 percent of risk-weighted assets plus any applicable GSIB surcharge and countercyclical capital buffer amount. The proposal would replace the 2.5 percent of risk-weighted assets with a stress capital buffer requirement, for firms subject to the supervisory stress test. A firm's stress capital buffer requirement would be tailored to its risk profile and potential vulnerability to stress. The firm's capital conservation buffer requirement under the standardized approach would be equal to its stress capital buffer and any applicable GSIB surcharge plus any applicable countercyclical capital buffer amount (standardized approach capital conservation buffer requirement).

Currently, a firm subject to the advanced approaches calculates a given risk-based capital ratio under both the standardized and advanced approaches, and uses the lower of the two ratios as its operative ratio. Under the proposal, a firm would continue to calculate a given risk-based capital ratio under both the standardized and advanced approaches, and would calculate a different capital conservation buffer requirement for each. The capital conservation buffer requirement under the advanced approaches would be equal to 2.5 percent of risk-weighted assets (rather than the stress capital buffer requirement) plus any applicable GSIB surcharge plus any applicable countercyclical capital buffer amount (advanced approaches capital conservation buffer requirement). To date, the Board has not used or required the use of the capital rule's advanced approaches in the supervisory stress test due to the significant resources required to implement the advanced approaches on a pro forma basis and due to the complexity and opaqueness associated with introducing the advanced approaches in supervisory stress test projections. In addition, both the supervisory stress test and the advanced approaches are calibrated to reflect tail-risks; thus it could be duplicative to require a firm to meet the requirements of the advanced approaches on a post-stress basis.

For firms subject to the capital plan rule, the proposal would introduce a stress leverage buffer requirement in addition to the 4 percent minimum tier 1 leverage ratio requirement. This stress leverage buffer requirement would help to maintain the current complementary relationship between the risk-based and leverage capital requirements in normal and stressful conditions. In addition, it would continue the current practice of

evaluating a firm's vulnerability to declines in its leverage ratio under stressful conditions.

The proposal would not, however, extend the stress buffer concept to the supplementary leverage ratio. A single stress leverage buffer, applicable to all firms, would provide a sufficient backstop and avoid adding additional complexity.²⁵

A firm would need to maintain capital ratios above all minimum and buffer requirements to avoid restrictions on its capital distributions and discretionary bonus payments. A firm would be subject to the most stringent distribution limitations, if any, as determined by the firm's standardized approach capital conservation buffer requirement, the firm's stress leverage buffer requirement and, if applicable, the firm's advanced approaches capital conservation buffer requirement, and the enhanced supplementary leverage ratio standard.

The Board's supervisory stress test conducted under Regulation YY would be used to size each firm's stress buffer requirements. The stress buffer requirements would be calculated under the supervisory stress test's severely adverse scenario, designed in accordance with the Policy Statement on the Scenario Design Framework for Stress Testing. As described in appendix A to 12 CFR part 252, severely adverse scenarios are designed to be plausible, relevant, and guided in large part by historical experience in severe U.S. recessions.²⁶

As in the current supervisory post-stress capital assessment in CCAR, under the proposal, the supervisory stress test would continue to use a common set of scenarios, models, and assumptions across firms. The performance of each model used in the supervisory stress test is assessed using a variety of metrics and benchmarks, including benchmark model results, where applicable. Each model is validated annually by an independent supervisory model validation function. In December 2017, the Board issued a Stress Testing Policy Statement for public comment describing its approach to supervisory model development, implementation, use, and validation.²⁷

Each component of a firm's standardized approach capital

²⁵ GSIBs would continue to be subject to an enhanced supplementary leverage ratio standard under the capital rule.

²⁶ 12 CFR part 252, appendix A.

²⁷ See 82 FR 59528 (Dec. 15, 2017) as proposed 12 CFR part 252, appendix B. This proposal re-proposes only section 2.7 of the proposed Stress Testing Policy Statement for public comment and proposes to add a new section 3.4 relating to a simple approach for projecting risk-weighted assets.

conservation buffer requirement serves a distinct purpose and is calibrated and designed according to that purpose. The stress capital buffer requirement would be calibrated based on each firm's vulnerability to adverse economic or financial market conditions. As such, it would help ensure that the firm holds sufficient capital to continue to serve as a financial intermediary during a period of financial stress. The GSIB surcharge is designed to mitigate the risk posed to financial stability by certain large and systemic financial institutions, and is calibrated based on the externalities posed by these firms as measured by factors such as size, interconnectedness, and complexity. Finally, the countercyclical capital buffer is a macroprudential tool intended to strengthen the resiliency of financial firms and the financial system, by allowing the Board to raise capital standards when credit growth in the economy becomes excessive. Taken together, a firm's standardized approach capital conservation buffer requirement ensures that the firm has sufficient capital to continue to serve as a financial intermediary during stress, internalizes the cost that its failure would have on the broader economy, and builds capital when there is an elevated risk of above-normal losses.

In the CCAR review, certain discussion participants disagreed with the view that the supervisory post-stress capital assessment and the GSIB surcharge serve different purposes because two elements of the Board's supervisory post-stress capital assessment, the global market shock and the large counterparty default scenario component, apply only to GSIBs. However, the global market shock and large counterparty default scenario component apply to any firm that has material trading, derivatives, and securities financing transaction activities to capture direct losses stemming from these activities.²⁸ The market shock measures the trading mark-to-market losses associated with sudden changes in asset prices, and the large counterparty default scenario component measures the losses

²⁸ On December 15, 2017, the Board modified the applicability criteria for the global market shock to more accurately identify the risks and capital needs of firms participating in the supervisory stress test. As revised, the global market shock applies to any bank holding company or intermediate holding company that (1) has aggregate trading assets and liabilities of \$50 billion or more, or aggregate trading assets and liabilities equal to 10 percent or more of total consolidated assets, and (2) is not a large and noncomplex firm. In this proposal, the Board proposes to move the applicability criteria for the global market shock from the FR Y-14 reporting form to Regulation YY.

associated with repricing counterparty exposures based on the market shock, and then assumes the default of the counterparty that represents the largest net exposure. These components of the current supervisory post-stress capital assessment (and future modified supervisory stress test) therefore do not capture the potential adverse impact of the failure of a GSIB on the financial system as a whole—the risks that are the basis for the GSIB surcharge.

As described below in section II.B of this preamble, the proposed stress buffer requirements would incorporate different capital action assumptions than are currently used in the supervisory post-stress capital assessment in CCAR. Those revised capital action assumptions would also be incorporated in the Board's supervisory stress tests and the company-run stress tests conducted under Regulation YY, in order to harmonize the publicly disclosed supervisory and company-run stress test results with the stress buffer requirements.²⁹

Question 1: What are the advantages and disadvantages of incorporating the stress capital buffer and stress leverage buffer requirements into the capital rule? How well does the proposal enhance regulatory simplicity, transparency, and efficiency for firms subject to the capital plan rule? What refinements or additional approaches should the Board consider to enhance these goals, and why? Please provide data on the impact of any proposed refinements or additional proposals.

Question 2: What are the advantages and disadvantages of including or excluding the stress capital buffer requirement from the advanced approaches capital conservation buffer requirement when considered in combination with other elements of the proposal or alternatives to the proposal? What if any, alternatives should the Board consider and why? For example, should the Board consider scaling the stress capital buffer requirement by the ratio of a firm's standardized total risk-weighted assets to its advanced approaches total risk-weighted assets in cases where the firm's advanced approaches capital ratio calculations are lower than its standardized capital ratio calculations? What are the advantages or disadvantages of such an approach?

Question 3: What are the advantages or disadvantages of not extending the

stress buffer concept to the supplementary leverage ratio?

Question 4: Would modifications to the enhanced supplementary leverage ratio standards impact the responses to the questions above or any other aspect of the proposal, and if so how?

Question 5: How should the Board contemplate the appropriate level of the countercyclical capital buffer in light of the proposal?

Calculation of the Proposed Stress Capital Buffer Requirement

Under the proposal, the Board would determine a firm's stress capital buffer requirement as the difference between the firm's starting and lowest projected CET1 capital ratios under the severely adverse scenario in the supervisory stress test, calculated under the standardized approach, plus the sum of the ratios of the dollar amount of the firm's planned common stock dividends to projected risk-weighted assets for each of the fourth through seventh quarters of the planning horizon. The stress capital buffer requirement would be floored at 2.5 percent of a firm's risk-weighted assets.

Under the current capital rule, all banking organizations are subject to a capital conservation buffer requirement. The capital rule's current static 2.5 percent of risk-weighted assets component of the capital conservation buffer requirement was calibrated to reflect how firms' capital positions were affected during periods of severe stress, including the most recent financial crisis.³⁰ Placing a 2.5 percent of risk-weighted assets floor on the stress capital buffer requirement would ensure a minimum level of stringency across firms of all sizes and complexity and that a smaller firm would not be subject to more a stringent buffer requirement than a firm with total consolidated assets of \$50 billion or more.

Calculation of the Proposed Stress Leverage Buffer Requirement

The stress leverage buffer requirement would be determined based on the same annual supervisory stress test that the Board conducts to determine the stress capital buffer requirement. Under the proposal, the Board would determine a firm's stress leverage buffer requirement as the difference between the firm's starting and lowest projected Tier 1 leverage ratio under the severely adverse scenario in the supervisory stress test plus the sum of the ratios of

the dollar amount of the firm's planned common stock dividends to projected leverage ratio denominator for each of the fourth through seventh quarters of the planning horizon. The stress leverage buffer requirement would not have a floor, as there is no generally applicable leverage buffer requirement today, and would apply to all firms subject to the capital plan rule.

B. Assumptions and Methodologies Used in Determining the Proposed Stress Buffer Requirements

For the supervisory stress test used to calculate the stress buffer requirements, the Board proposes to revise certain assumptions it currently uses in the supervisory post-stress capital assessment in CCAR. Currently, in the CCAR post-stress capital assessment, the Board assumes that a firm will make all of its planned capital actions, including dividends and repurchases, and issuances of regulatory capital instruments. The proposal would narrow the set of planned capital actions assumed to occur in the supervisory stress test.

The current CCAR capital distribution assumptions were introduced to assess whether a firm could meet minimum capital requirements during severe stress conditions even if the firm did not reduce its planned capital distributions. However, the stress buffer requirements would reduce the need for the assumption that a firm makes all common stock distributions in a stress scenario because the restriction on a firm's capital distributions on an ongoing basis would be a function of the firm's performance under stress. Accordingly, the Board would no longer assume that a firm makes any repurchases or redemptions of any capital instrument.

However, in order to preserve the current incentives for a firm to engage in disciplined, forward-looking dividend planning, a firm's stress buffer requirements would include four quarters of planned common stock dividends (in the fourth through seventh quarters of the planning horizon), added to the projected decline in the firm's capital under stress. Requiring a firm to pre-fund one year of planned dividends would preserve the current incentives for a firm to engage in disciplined, forward-looking dividend planning. As noted, this aspect of the proposal is based on the Board's experience with large bank holding companies' capital distribution practices during the recent financial crisis. Additionally, evidence in the academic literature generally indicates that repurchases are more flexible than

²⁹ The supervisory and company-run stress tests conducted under Regulation YY would not include four quarters of planned dividends.

³⁰ See Basel Committee on Banking Supervision, Calibrating regulatory minimum capital requirements and capital buffers: A top-down approach (October 2010), available at: <https://www.bis.org/publ/bcbs180.htm>.

dividends.³¹ A reduction in dividends by a publicly-traded firm could be interpreted by market participants as a signal of long-run deterioration in firm profitability, which could lead to a negative stock price reaction. Hence, even if the outlook for a publicly traded firm has significantly worsened, public pressure and competition may deter the firm from reducing dividend payments. Requiring a firm to pre-fund one year of dividends reflects the assumption that the firm will strive to maintain its current level of dividends even during times of stress.

As in the current supervisory post-stress capital assessment, the Board would continue to assume in the supervisory stress test that a firm would make payments on any instrument that qualifies as additional tier 1 capital or tier 2 capital equal to the stated dividend, or contractual interest or principal due on such instrument during the quarter. Based on supervisory experience, reductions in these payments are generally viewed by market participants as a sign of material weakness and firms are therefore likely to make them even under stressful conditions.³²

The Board would also generally assume in the supervisory stress test that a firm does not make any planned issuance of regulatory capital instruments, parallel to the assumption that a firm does not repurchase any regulatory capital instruments. However, as under the current capital plan rule, the supervisory stress test would include issuances of common or preferred stock in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in a firm's pro forma balance sheet estimates. Including such issuances, for purposes of the supervisory stress tests, would allow the Board to assess how a planned merger or acquisition would affect a firm's post-stress capital position.

The proposal would revise the required capital action assumptions in the company-run stress test rules to be consistent with the proposed capital actions used to calculate a firm's stress buffer requirements and would introduce those assumptions into the supervisory stress test rules.³³

Since the first CCAR exercise, any capital plan implying a common stock dividend payout ratio above 30 percent has received heightened scrutiny in the qualitative assessment of each firm's capital planning processes. Participants in the CCAR review expressed general opposition to any specific cap on dividends, and argued that if a cap were deemed necessary, it should be higher than 30 percent. Including four quarters of planned dividends in a firm's stress buffer requirements as proposed would foster an incentive for prudent dividend payouts, removing the need for heightened scrutiny based on a capital plan's dividend payout ratio. Accordingly, in connection with this proposal, in future CCAR exercises the Board would eliminate the 30 percent dividend payout ratio as a criterion for heightened supervisory scrutiny of a firm's capital plan.

In addition, in response to comments regarding the current assumption that a firm's credit supply does not contract, resulting in growth of a firm's balance sheet in stress scenarios, the Board is proposing to modify its Stress Testing Policy Statement to include the assumption that a firm takes actions to maintain its current level of assets, including its securities, trading assets, and loans, over the planning horizon (no growth assumption).³⁴ The no growth assumption would simplify the current supervisory stress test assumptions while preventing firms from planning to reduce credit supply in a stress scenario. In addition, the proposal would clarify in the Stress Testing Policy Statement that, in projecting risk-weighted assets and the leverage ratio denominator, the Board would assume that a firm's risk-weighted assets and leverage ratio denominator remain unchanged over the planning horizon except for changes primarily related to deductions from regulatory capital or due to changes to the Board's regulations. Similar to the Board's current methodology, balance

Actual capital actions for the first quarter of the planning horizon; (2) any common stock dividends; or (3) issuance of common or preferred stock relating to expensed employee compensation. For the first quarter of the planning horizon, firms would include any payments on any other instrument that is eligible for inclusion in the numerator of a regulatory capital ratio equal to the stated dividend, interest, or principal due on such instrument during the quarter. The capital action assumptions used in the company-run and supervisory stress tests would not include the four quarters of planned dividends.

³⁴ While the Board would assume in the supervisory post-stress capital assessment that a firm's balance sheet does not grow, in a firm's company-run stress tests, the Board expects each firm's projected balance sheet to be consistent with each scenario and the firm's business strategy.

sheet, risk-weighted asset, and leverage ratio denominator projections would reflect the impact of a change to a firm's business plan, such as a planned merger or acquisition, or completed or contractually agreed-on divestiture.³⁵

Question 6: What aspects of the calculation of the stress buffer requirements could be modified to increase the effectiveness of the proposal in ensuring that firms maintain stress buffer requirements that are appropriately sized to withstand stressful economic and financial conditions while permitting such firms to continue lending and supporting the real economy? Please describe the advantages or disadvantages of any alternative approach.

Question 7: Besides stated payments on regulatory capital instruments and issuance of common or preferred stock associated with a merger or acquisition, what, if any, other types of planned capital actions should the Board incorporate into the supervisory stress test for the purposes of calculating the stress buffer requirements, and why?

Question 8: What are the advantages and disadvantages of including or excluding dividend payouts and certain other planned capital actions in the calculation of the stress buffer requirements when considered in combination with other elements of the proposal or alternatives to the proposal?

Question 9: What, if any, additional factors beyond a planned divestiture, merger, or acquisition, should the Board incorporate into its projected changes in a firm's balance sheet or risk-weighted assets over the planning horizon and why?

Question 10: What are the advantages and disadvantages of integrating the distribution assumptions used in calculating a firm's stress buffer requirements with those used in the supervisory stress test?

C. Effective Dates for Proposed Stress Buffer Requirements

A firm's stress buffer requirements would be effective on October 1 of each year, and remain in effect until September 30 of the following year, unless the firm received updated stress buffer requirements from the Board.³⁶ The rule would be effective December 31, 2018. Under the proposal, a firm's

³⁵ A firm's capital plan must include a discussion of any expected changes to its business plan that are likely to have a material impact on its capital adequacy or liquidity. See 12 CFR 225.8(e)(2)(iv).

³⁶ A firm may receive updated stress buffer requirements in connection with a resubmitted capital plan or in connection with a request for reconsideration (as described in section III.D of this preamble).

³¹ See Franklin Allen and Roni Michaely (2003), "Payout Policy" in Handbook of the Economics of Finance, and Martin Schmalz, Joan Farre-Mensa, and Roni Michaely (2014) "Payout Policy" in Robert Jarrow (Ed.), Annual Review of Financial Economics.

³² 12 CFR 217.20(c) and (d).

³³ Under the proposal, in their company-run stress test, covered companies would no longer include in their capital action assumptions: (1)

first stress buffer requirements would be effective on October 1, 2019.³⁷

The process for determining the stress buffer requirements would be codified in the Board's capital plan rule (discussed further in section III below), and the restrictions associated with these requirements would be codified in the Board's capital rule (discussed further in section IV below).

Question 11: What if any operational complications or challenges to capital planning processes would the proposed effective dates create, and how might the Board address these issues consistent with the goals of the proposal?

Question 12: What advantages or disadvantages are associated with making the rule effective on December 31, 2018 and generally making the stress buffer requirements effective on October 1, 2019?

D. Impact of the Proposed Stress Buffer Requirements

To avoid limitations on capital distributions under the Board's current rules, a firm must manage to two distinct capital regimes. Specifically, the firm must both (1) maintain risk-based capital ratios above the capital rule's minimum requirements plus the capital conservation buffer requirement (a GSIB must also maintain a supplementary leverage ratio above 5 percent), and (2) demonstrate an ability to maintain capital ratios above minimum regulatory capital requirements in the supervisory post-stress capital assessment in CCAR. This proposal would simplify and integrate these requirements, eliminating the need for firms to manage to both potential sources of limitations on capital distributions. In conjunction with the proposal, the Board would also modify certain assumptions used in the supervisory stress test. To assess the impact of both the integration and the modified assumptions, the Board reviewed the levels of capital currently required of each firm across the two current regimes to avoid limitations on capital distributions and compared the higher of those amounts to the estimated level of capital that would be required of each firm under the proposal.³⁸

³⁷ To provide a transition between the 2018 CCAR cycle and the first stress buffer requirement, for the period from July 1 through September 30, 2019, under the proposal, a firm would be authorized to make capital distributions that do not exceed the four-quarter average of capital distributions for which the Board or Reserve Bank indicated its non-objection in the previous capital plan cycle, unless otherwise determined by the Board.

³⁸ This analysis assumes a countercyclical capital buffer amount of zero, consistent with the current level as affirmed by the Board on December 1, 2017:

For firms with over \$50 billion in assets that are not GSIBs, the proposal would generally result in a reduction to a firm's required level of capital to avoid capital distribution limitations relative to what is required today.³⁹ This estimated reduction is attributable to the proposal's modified assumptions regarding balance sheet growth and capital distributions. While these assumptions would more appropriately reflect the expected performance of bank portfolios under stress, they would be somewhat less stringent than the assumptions currently used in the supervisory stress test. For GSIBs, the proposal would generally maintain or in some cases increase CET1 capital requirements. The estimated increase for these firms would occur because the capital conservation buffer requirement under the proposal—which, for a GSIB, includes both the stress capital buffer requirement and the GSIB surcharge—would be greater than the capital required under the current supervisory post-stress capital assessment.

All other things being equal, the proposal generally would lower the amount of tier 1 capital that a firm would need to maintain with respect to the assessment of the leverage ratio in stress. This is because the modified balance sheet and distribution assumptions in the supervisory stress test would reduce the stringency of the Tier 1 leverage ratio in stress and the stress leverage buffer requirement would not include a GSIB surcharge or any applicable countercyclical capital buffer amount.

The impact of the proposal would vary through the economic and credit cycle based on the risk profile and planned capital distributions of individual firms, as well as on the specific severely adverse stress scenario used in the supervisory stress test. Based on data from CCAR 2015, 2016, and 2017, the impact of the proposal would range from an aggregate reduction in CET1 capital requirements of about \$35 billion (based on 2017 data) to an aggregate increase in CET1 capital requirements of about \$40 billion (based on 2015 data). For GSIBs, this represents a corresponding increase in CET1 capital requirements of approximately \$10 billion to \$50 billion

www.federalreserve.gov/newsevents/pressreleases/bcreg20171201a.htm.

³⁹ In connection with this analysis, the Board analyzed the stress test results in CCAR 2015 through 2017. U.S. IHC subsidiaries of foreign banking organizations were not subject to supervisory stress testing for this full period, and accordingly, were excluded from this quantitative analysis. None of these firms is subject to the GSIB surcharge, and all would benefit from the modified capital distribution and balance sheet assumptions.

in aggregate, respectively, while non-GSIBs would have a decrease of approximately \$45 billion to \$10 billion, respectively. Had the proposal been in effect during recent CCAR exercises, analysis of those CCAR results and the current level of capital at participating firms indicates that no such firm would have needed to raise additional capital in order to avoid the proposal's limitations on capital distributions.

III. Proposed Changes to the Capital Plan Rule

A. Removal of Quantitative Objection

The proposal would remove the quantitative objection from the capital plan rule. Under the current capital plan rule, a firm may receive an objection to its capital plan if the firm does not demonstrate the ability to maintain capital ratios above the minimum requirements on a post-stress basis. The proposal would replace the quantitative objection with the stress buffer requirements.

B. Requirements for a Firm's Planned Capital Distributions

A focus on firms' capital planning would continue to be a key element of the Board's regulatory and supervisory regime. The proposal would continue to require a firm to describe its planned capital distributions in its capital plan and not exceed those planned capital distributions. Firms should plan to maintain capital levels above their minimum requirements plus relevant buffer requirements during normal economic periods and also to plan for capital needs during adverse economic conditions. These practices allow firms to continue to lend and operate as viable financial intermediaries even during adverse periods.

To help ensure a firm engages in prudent capital planning, the firm would be required to limit its planned capital distributions for the fourth through seventh quarters of the planning horizon to those that would be consistent with any effective capital distribution limitations that would apply under the firm's own BHC baseline scenario projections.⁴⁰ For

⁴⁰ A firm would be required to ensure its planned capital distributions are consistent with any limitations on capital distributions it anticipates would apply in baseline conditions in the upcoming year. Those limitations would include the projected standardized approach capital conservation buffer requirement, stress leverage buffer requirement, supplementary leverage buffer requirement, internal and external total loss-absorbing capacity buffer requirements, and any capital directive established by the Board by order or regulation. The limitations would not be calculated using the advanced approaches, as a firm

example, in a given calendar quarter, if a firm estimates that the amount of its capital conservation buffer will be less than the corresponding capital conservation buffer requirement, the firm would be required to limit its planned distributions in that quarter to those permitted under the capital rule. When determining conformance under the capital plan rule with effective capital distribution limitations established by the Board under the capital rule, a firm would not be required to consider planned discretionary bonus payments.⁴¹

In its capital plan, a firm would also be required to plan for all limitations on capital distributions in the Board's rules, except the advanced approaches capital conservation buffer requirement and total loss-absorbing capacity buffer requirement calculated using the advanced approaches.⁴² In addition, a firm's GSIB surcharge and countercyclical capital buffer amount may vary over the planning horizon, consistent with the requirements of the capital rule. The proposal would require a firm's planned capital distributions to be consistent with, as applicable, the firm's current GSIB surcharge and countercyclical capital buffer amount, as well as any known changes to these items during the planning horizon. Any assumption that the GSIB would rapidly shrink and reduce its other measures of systemic risk during a stress period such that it no longer would be a GSIB would be inconsistent with the expectation that the GSIB remain a financial intermediary and continue to support the real economy. The proposal would therefore require a firm to assume its GSIB surcharge in the ninth quarter of the planning horizon is the same as its GSIB surcharge in the eighth quarter of the planning horizon.

For instance, a firm that became subject to a higher GSIB surcharge in its most recent annual surcharge calculation would use the higher surcharge beginning in the fifth quarter of the planning horizon (which would coincide with the quarter in which the higher GSIB surcharge would come into effect under the capital rule) and retain that amount through the end of the planning horizon. Otherwise, a firm would assume that its current GSIB surcharge applies for all quarters of the

is not required to use the advanced approaches to calculate its regulatory capital ratios in the capital plan rule.

⁴¹ The capital plan rule and corresponding regulatory reports do not require a firm to describe or separately identify discretionary bonus payments.

⁴² See e.g., 12 CFR 217.11, 12 CFR 252.63, 12 CFR 252.165, and 12 CFR part 263.

planning horizon (as it would not have knowledge of a decrease in its GSIB surcharge when it finalized its plan). With regard to the countercyclical capital buffer, a firm would reflect any applicable countercyclical capital buffer amount as established by the Board. For example, if the Board had established a countercyclical capital buffer amount beginning in the fifth quarter of the planning horizon that remained in effect for one year, the firm would reflect the countercyclical capital buffer amount in quarters five through eight of the planning horizon.

Under the proposal, a firm's planned capital distributions would be required to be consistent with effective capital distribution limitations that would apply in the firm's pro forma projections under the BHC baseline scenario. The BHC baseline scenario would be defined as a scenario that reflects the bank holding company's reasonable expectation of the economic and financial outlook, including expectations related to the bank holding company's capital adequacy and financial condition. The firm's projections under the BHC baseline scenario must incorporate the firm's expected performance, business plan, management actions, and all planned capital actions.⁴³

Basing capital distribution restrictions on a firm's projections in its BHC baseline scenario may create incentives for a firm to be overly optimistic about its baseline projections in order to increase the amount of permissible capital distributions. In order to maintain strong incentives for a firm to project realistic baseline earnings, the Board intends to monitor and evaluate a firm's quarterly performance relative to its baseline projections to help ensure that the firm adopts processes that realistically project performance and capital levels. A pattern of materially underperforming baseline projections for earnings, capital levels, or capital ratios may be indicative of weaknesses in the firm's capital planning and result in heightened scrutiny in the qualitative assessment. Additionally, as under the current rule, the Board may require a firm that materially underperforms its projected capital ratios to resubmit its capital plan if such underperformance results from material changes in the firm's risk exposures or operating conditions. Additionally, under the proposal, the Board would continue to

⁴³ Consistent with current practice, a firm may use the same baseline scenario as the supervisory baseline scenario if the bank holding company determines the supervisory baseline scenario appropriately represents its view of the most likely outlook for the risk factors salient to the firm.

be able to object to the capital plans of large and complex firms and LISCC firms on qualitative grounds.

Further, the proposal would provide that the Board would consider the results of any stress test conducted by the bank holding company or the Board in conducting its review of a firm's capital plan, similar to the provision in the current capital plan rule. Those results would inform the Board's view of the financial condition of the firm, which has implications for the reasonableness and appropriateness of the firm's capital plan.

Question 13: What are the advantages and disadvantages of not requiring a firm to project and meet the limitations of the capital rule regarding discretionary bonus payments on a pro forma basis?

Question 14: What, if any, modifications should the Board make to the definition of BHC baseline scenario?

Question 15: What are the advantages and disadvantages of not requiring a firm to make BHC baseline scenario projections that would enable it to evaluate whether its planned capital actions would be consistent with advanced approaches-based capital distribution restrictions, such as the advanced approaches capital conservation buffer requirement or the total loss absorbency capacity buffer requirements?

C. Summary of the Proposed Timeline for Reviewing Capital Plans and Calculating the Stress Buffer Requirements

Under the current capital plan rule, the Board completes its assessment of a firm's capital plan, including the supervisory stress test, by June 30. Similarly, under the proposal, the Board would complete the assessment of a firm's capital plan and provide each firm with initial notice of the firm's stress buffer requirements by June 30. The proposal would modify certain other procedural requirements associated with the capital plan rule.

Consistent with the current practice, the as-of date for the capital plan cycle would be December 31 of the previous calendar year, and the planning horizon for capital planning would be a period of nine consecutive quarters from that date. Firms would submit their capital plans and related regulatory reports by April 5. The Board generally would determine each firm's stress buffer requirements and conduct a qualitative evaluation of the capital plans of large and complex firms and LISCC firms in the second quarter of the year (April through June). By June 30, the Board generally would disclose to the public

each firm’s stress buffer requirements and the Board’s decision to object or not object to the capital plan of each large and complex and LISCC firm on qualitative grounds.

Currently, upon completion of the supervisory stress test but before the disclosure of the final CCAR results, the Board provides each firm with the results of its post-stress capital analysis, and each firm has an opportunity to make a one-time adjustment to its planned capital actions. Similarly, under the proposal, within two business days of receipt of initial notice of its

stress buffer requirements, a firm would be required to assess whether its planned capital distributions are consistent with the effective capital distribution limitations that would apply on a pro forma basis under the BHC baseline scenario throughout the fourth through seventh quarters of the planning horizon. In the event of an inconsistency, a firm would be required to reduce the capital distributions in its capital plan to be consistent with such limitations for those quarters of the planning horizon.⁴⁴ A firm would be required to notify the Board of any

reductions in capital distributions in its capital plan.

Each firm’s updated annual stress buffer requirements would become effective for purposes of the capital rule on October 1. From October 1 through September 30 of the following calendar year, a firm would not be permitted to exceed the amount of capital distributions in the firm’s capital plan without prior notification to or approval from the Board.

Table 1 below summarizes the key dates and actions in the annual capital plan cycle under the proposal.

TABLE 1—KEY DATES AND ACTIONS IN THE ANNUAL CAPITAL PLAN CYCLE UNDER THE PROPOSAL

Date	Action
December 31 of the preceding calendar year.	As of date of the capital plan cycle.
By February 15	Board publishes scenarios for the upcoming capital plan cycle.
By April 5	Each firm submits its capital plan (including results of the bank holding company’s stress tests) and relevant regulatory reports.
April through June	Board performs its supervisory stress test and calculates each firm’s stress buffer requirements. Concurrently, the Board conducts a qualitative evaluation of each large and complex and LISCC firm’s capital plan.
By June 30	The Board provides to a firm and publishes initial notice of the firm’s stress buffer requirements, and for each large and complex and LISCC firm, the Board’s decision to object or not object to the capital plan on a qualitative basis.
Within two business days of initial notice.	Each firm must analyze its planned capital distributions for the period of October 1 through September 30 of the following calendar year, and adjust downward any amount not consistent with effective capital distribution limitations that would apply on a pro forma basis under baseline conditions, and provide the Board its final planned capital distributions.
October 1 through September 30 of the following calendar year.	Effective dates of a firm’s stress buffer requirements.

Transition to the Stress Buffer Requirement Regime

Currently, the Board’s review and approval of planned capital actions covers the four-quarter period between July 1 and June 30 of the following calendar year. Were a firm’s stress buffer requirements to become effective on October 1, 2019, as proposed, for the period July 1 to September 30, 2019, a bank holding company would be authorized to make capital distributions that do not exceed the four-quarter average of capital distributions to which the Board indicated its non-objection for the previous capital plan cycle, unless otherwise determined by the Board. To the extent that a firm wishes to make additional capital distributions beyond its four-quarter average of capital distributions to which the Board indicated its non-objection for the previous capital plan cycle, it would be able to use the established notification or request for approval processes in the current capital plan rule.

Question 16: The proposal would maintain the Board’s current practice of

providing firms with two business days to make any adjustments to planned capital actions to minimize the time when a firm has material nonpublic information. What if any challenges are posed by this timeframe for a firm to adjust its planned capital actions?

Question 17: What are the advantages or disadvantages of the proposed transition from the current process to the proposed process? What if any alternative transition processes should the Board consider and why?

D. Requests for Reconsideration

The proposed rule would revise the procedures for a firm to request reconsideration of a qualitative objection to its capital plan and would provide similar procedures to allow a firm to request reconsideration of its stress buffer requirements.

Under the proposal, a firm that determines to request reconsideration of any of its stress buffer requirements or of a qualitative objection to its capital plan would be required to submit a request to the Board, and the Board

would respond in writing within 30 days. By requiring a firm to submit a request for reconsideration through this procedure, the proposal would provide the Board with an opportunity to consider justifications and additional information that the firm believes would support its request in light of the results of the Board’s supervisory stress test, additional information received during the CCAR process, and any other relevant information. The proposed procedures also would provide a firm with an opportunity to respond to any of its stress buffer requirements and help ensure that the stress capital buffer requirements are appropriately sized. Likewise, the proposed procedures would provide a firm with an opportunity to respond to a qualitative objection to its capital plan, and to help ensure that the Board has considered all relevant aspects of the firm’s capital planning process and capital adequacy process. While a firm’s request for reconsideration is pending, the requirements under reconsideration

⁴⁴In addition, a firm that is not required to reduce its planned capital distributions would be

permitted to do so after receiving its initial notice. For instance, a firm may choose to reduce its

planned dividends in order to lower its stress buffer requirements.

would not be final, and therefore would not be effective.

Timing and Contents of Request for Reconsideration

The proposal would establish requirements for the timing and contents of a request for reconsideration. Under the proposal, a firm wishing to request reconsideration of a qualitative objection to its capital plan or any of its stress buffer requirements would be required to submit to the Board in writing such request within fifteen calendar days of receipt of notice of its objection or stress buffer requirements. The request would be required to include an explanation of why the firm believes that the objection to its capital plan or either of its stress buffer requirements should be reconsidered. To facilitate the Board's review of a firm's request for reconsideration, the request should identify all supporting reasons for the request. For information not previously provided as part of the capital plan, the request should include an explanation of why the information should be considered.

Within 30 calendar days of receipt of the firm's request for reconsideration, the Board would notify the firm of its decision to affirm or modify any of the firm's stress buffer requirements or affirm or withdraw its objection to the firm's capital plan.⁴⁵ The Board's response would include an explanation of its decision, including responses to the firm's supporting reasons and consideration of additional information provided.

The proposed timeline is intended to provide an adequate opportunity for response, while ensuring that the results of the supervisory stress test and a firm's most recent capital plan are integrated into the firm's ongoing capital requirements and planned distributions as quickly as possible. The proposed process should provide the firm with an opportunity to present any issues or arguments in an efficient manner and allow the Board to respond to the items raised in the request for reconsideration taking into account the results of the stress test and its supervisory experience in light of information and arguments presented by the firm.

⁴⁵ The Board would be able to extend the time for action on a request for reconsideration upon notice to the firm.

Effectiveness of Stress Buffer Requirements During Request for Reconsideration

While a firm's request for reconsideration is pending, its stress buffer requirement(s) or qualitative objection to the firm's capital plan, if under reconsideration, would not be final, and therefore would not be effective.⁴⁶ The firm generally would be able to continue to make capital distributions that were included in the last capital plan for which the firm received a non-objection.⁴⁷

Adjustments Following Reconsideration Determination

In the case that the Board adjusted a firm's stress buffer requirements in response to a request for reconsideration of a firm's stress buffer requirement(s), the firm would follow the procedures provided for the initial notification of the stress buffer requirements. To enable the firm to make the capital distributions included in its original capital plan, if the Board reduced the firm's stress buffer requirements, the firm would have an opportunity to increase its planned capital distributions up to the amount included in the firm's original capital plan. A firm would be required to notify the Board of any adjustments in planned capital distributions.

Informal Hearing Procedures

Currently, the capital plan rule provides that a firm that requests reconsideration of an objection to its capital plan may request an informal hearing as an alternative to requesting reconsideration of an objection to its capital plan. Consistent with the current capital plan rule, the proposal would provide a firm with an opportunity to request an informal hearing as part of its request for request for reconsideration.

Question 18: What are the advantages and disadvantages of the proposed procedures for requesting

⁴⁶ A qualitative objection to a capital plan and any of a firm's stress buffer requirements also would not be effective during the 15-day period following the notice of objection or stress buffer requirements but prior to the deadline for submitting a request for reconsideration.

⁴⁷ To maintain a firm's status quo during the request for reconsideration, if the Board has not yet indicated its non-objection for a quarter during which a decision for a request for reconsideration is pending, a firm would be able to make capital distributions so long as these distributions do not exceed the four-quarter average of capital distributions to which the Board indicated its non-objection for the previous capital plan cycle, unless otherwise determined by the Board. A limitation based, in part, on an average of final planned capital actions for the previous capital plan cycle would account for variations in a firm's capital actions from quarter to quarter.

reconsideration of a qualitative objection to a capital plan or any of the stress buffer requirements? What, if any, modifications would enhance the proposed procedures?

Question 19: During the pendency of a request for reconsideration, a firm's stress buffer requirements or objection to a firm's capital plan would not go into effect and a firm generally would continue to be bound by existing limitations on capital distributions. What are the advantages and disadvantages of this approach?

Question 20: The proposal would require a firm to submit a request for reconsideration within 15 calendar days of receiving notice of a qualitative objection to its capital plan or any of its stress buffer requirements. What if any challenges are posed by this proposed timeframe?

Question 21: The Board has not received any requests for an informal hearing under the capital plan rule. What are the advantages and disadvantages of continuing to provide an opportunity to request an informal hearing? What information would not be adequately addressed in a written reconsideration process that would be better addressed in an informal hearing? Discuss and provide examples of any issues that are likely to be raised in an informal hearing that would not be adequately presented through a written submission.

E. Capital Plan Resubmission and Circumstances Warranting Recalculation of the Stress Buffer Requirements

The capital plan rule currently provides that the Board may require a firm to resubmit its capital plan if the Board determines that there has been a material change in the firm's risk profile, financial condition, or corporate structure or if the bank holding company stress scenario(s) used in the firm's most recent capital plan are no longer appropriate for the firm's business model and portfolios, or changes in financial markets or the macro-economic outlook that could have a material impact on a firm's risk profile and financial condition require the use of updated scenarios (material change). Additionally, a firm must resubmit its capital plan if it determines there has been or will be a material change in the firm's risk profile, financial condition, or corporate structure since the firm last submitted the capital plan to the Board. Until the Board has acted on that resubmitted capital plan, a firm is not permitted to make any capital distributions other than those approved by the Board in

writing. A firm that wishes to increase its capital distributions can choose to resubmit its capital plan to the Board. These provisions would be maintained in the proposal.

Similar to the current procedure, under the proposal, the Board may recalculate a firm's stress buffer requirements whenever the firm chooses or is required to resubmit its capital plan. The Board would review a resubmitted capital plan within 75 calendar days after receipt and, at the Board's discretion, provide the firm with one or more updated stress buffer requirements, and, for a large and complex or LISCC firm, would object or not object to the resubmitted capital plan on qualitative grounds. Under the proposal, upon a determination by the Board or the firm of a material change, the Board may conduct an updated supervisory stress test and recalculate a firm's stress buffer requirements based on the resubmitted capital plan.⁴⁸ Similar to the process for submitting the annual capital plan, the planned capital distributions in the firm's resubmitted capital plan would be required to be consistent with any effective capital distribution limitations that would apply on a pro forma basis over the planning horizon. Any updated stress buffer requirements, approved planned capital actions, and, for a LISCC or large and complex firm, the Board's action on the resubmitted capital plan, would be in effect until the firm's updated stress buffer requirements from the next annual assessment by the Board become effective (unless the firm experienced another material change prior to that date).

Question 22: Under the proposal, the Board may recalculate a firm's stress buffer requirements if the firm resubmits its capital plan. Accordingly, the Board also would recalculate the firm's stress buffer requirement using an updated severely adverse scenario. What are the advantages or disadvantages of using an updated severely adverse scenario to recalculate a firm's stress buffer requirements?

Question 23: What, if any, other changes to CCAR or the capital plan rule should the Board consider? For example, what advantages or disadvantages would be associated with:

i. Removing or adjusting the provisions that allow the Board to object to a large and complex or LISCC firm's capital plan on the basis of qualitative

deficiencies in the firm's capital planning process;

ii. Publishing for notice and comment the severely adverse scenario used in calculating a firm's stress buffer requirements;

iii. Providing additional flexibility for a firm to exceed the capital distributions included in its capital plan if its earnings and capital ratios are above those in its BHC baseline; or

iv. Providing additional flexibility to a firm to increase the planned capital actions above what was included in its original capital plan based on the results of the supervisory stress test or request for reconsideration?

IV. Proposed Changes to the Capital Rule and Explanation of the Mechanics of the Distribution Limitations of the Stress Buffer Requirements

A. Proposed Changes to the Capital Rule

Conceptually, a firm's capital buffer is the amount by which its regulatory capital ratios exceed minimum requirements. For example, for risk-based capital purposes under the current capital rule, a firm's capital conservation buffer is equal to the lowest of the following ratios: The firm's CET1 capital ratio minus its minimum CET1 capital ratio requirement, its tier 1 capital ratio minus its minimum tier 1 capital ratio requirement, and its total capital ratio minus its minimum total capital ratio requirement. The proposal would retain this concept for determining a firm's buffer above its minimum risk-based capital requirements, and would extend the concept for purposes of determining a firm's buffer above its minimum 4 percent tier 1 leverage ratio requirement (leverage buffer). Under the proposal, a firm would compare a given buffer to the relevant buffer requirement to determine whether it is subject to limitations on its capital distributions and discretionary bonus payments.

To incorporate the stress buffer requirements into the capital rule, the proposal would revise the capital rule to introduce the terms "stress capital buffer requirement" and "stress leverage buffer requirement," and to define standardized approach capital conservation buffer requirement and advanced approaches capital conservation buffer requirement for firms subject to the capital plan rule. A firm would determine its standardized approach capital conservation buffer using risk-based capital ratios calculated under the capital rule's standardized approach, and, if applicable, would determine its advanced approaches capital conservation buffer using risk-

based capital ratios calculated under the rule's advanced approaches.⁴⁹ The firm would compare each of these buffers to the corresponding capital conservation buffer requirement. A subject firm's standardized approach capital conservation buffer requirement would be equal to the sum of: (1) Its stress capital buffer requirement, (2) as applicable, the firm's GSIB surcharge; and, (3) as applicable, the firm's countercyclical capital amount. A subject firm's advanced approaches capital conservation buffer requirement would be equal to the sum of: (1) 2.5 Percent of risk-weighted assets, (2) as applicable, the firm's GSIB surcharge; and, (3) as applicable, the firm's countercyclical capital buffer amount. Similarly, under the proposal, a firm would compare its leverage buffer to its stress leverage buffer requirement.

B. Mechanics of the Distribution Limitations of the Stress Buffer Requirements

A firm would be subject to the most stringent distribution limitation, if any, as determined by the firm's standardized approach capital conservation buffer requirement, the firm's stress leverage buffer requirement and, if applicable, the firm's advanced approaches capital conservation buffer requirement, and the enhanced supplementary leverage ratio standard. The firm would determine the maximum amount it could pay in capital distributions and discretionary bonus payments that quarter (maximum payout amount) by multiplying the firm's eligible retained income by the most stringent payout ratio, if any, that it is subject to as determined under Table 2 to 12 CFR 217.11 of the proposed rule.

For example, in order to determine the maximum payout amount that a firm may pay in capital distributions and discretionary bonus payments for the first quarter of 2020, a firm would multiply its maximum payout ratio by its eligible retained income. For the period from January 1, 2020 to March 31, 2020, the eligible retained income of the firm would be based on the firm's net income for the year 2019 and the maximum payout ratio would be determined based on the capital ratios of the firm as of December 31, 2019. Firms that are subject to stress buffer requirements are expected to know their

⁴⁸ For this purpose, the planning horizon would be the nine quarter period beginning on the date after the as-of date of the projections. For instance, if the as-of date of the projections was June 30, 2019, the planning horizon would extend from July 1, 2019, through September 30, 2021.

⁴⁹ As under the current capital rule, under § 217.10, a firm subject to the advanced approaches must calculate each of its risk-based capital ratios (common equity tier 1, tier 1, and total capital) under the standardized approach (12 CFR part 217, subpart D) and under the advanced approaches (12 CFR part 217, subpart E).

capital positions on a daily basis. If a firm has any uncertainty regarding its quarter-end capital ratios prior to filing its regulatory reports, it should be conservative with capital distributions (including buybacks) during the beginning of a calendar quarter in order to avoid a situation in which it distributes more than the amount permitted under the capital rule.

The proposal would not amend the current definitions of “distribution” and “capital distribution” found in the capital rule and capital plan rule, respectively. Under the capital rule, the definition of distribution includes reductions in tier 1 capital through a repurchase or any other means, except when the institution, in the same quarter as the repurchase, fully replaces the tier 1 instrument by issuing another similar instrument. Under the capital plan rule, a capital distribution means a redemption or repurchase of any debt or equity capital instrument, a payment of common or preferred stock dividends, a payment that may be temporarily or permanently suspended by the issuer on any instrument that is eligible for inclusion in the numerator of any minimum regulatory capital ratio, and any similar transaction that the Board determines to be in substance a distribution of capital. Unlike the definition of distribution in the capital rule, the definition of capital distribution in the capital plan rule does not provide an exception for distributions accompanied by an offsetting issuance. The discrepancy between the two definitions reflects the different purposes of the two rules. The broader definition included in the capital plan rule ensures that all distributions, including those offset by issuances, are included in a firm’s capital plan. However, because distributions offset by equivalent issuances within a quarter do not affect a firm’s capital position, this type of distribution is not included in the definition in the capital rule.

Question 24: What are the advantages or disadvantages of maintaining the current definitions of distribution and capital distribution in the capital rule and capital plan rule, respectively, or of amending the definition of capital distribution in the capital plan rule to match the definition of distribution in the capital rule or vice versa?

V. Proposed Changes to the Stress Test Rules

To increase the transparency regarding the application of an additional trading and counterparty scenario component, the proposal would expressly include the definition

of “significant trading activity” into the Board’s company-run stress test requirements,⁵⁰ rather than defining this term with reference to the Capital Assessments and Stress Testing report (FR Y–14). Currently, significant trading activity is defined in the FR Y–14. The FR Y–14 defines a firm with significant trading activity as any domestic bank holding company or U.S. intermediate holding company that is subject to supervisory stress tests and that (1) has aggregate trading assets and liabilities of \$50 billion or more, or aggregate trading assets and liabilities equal to 10 percent or more of total consolidated assets, and (2) is not a “large and noncomplex firm” under the Board’s capital plan rule. Under the proposal, this definition of significant trading activity would be adopted in the stress test rules for the annual company-run stress test. This change would be responsive to feedback that it is more transparent to define the scope of applicability for the trading and counterparty component in the stress test rules, rather than by cross-reference to the FR Y–14.

VI. Proposed Changes to Regulatory Reports

The proposal would modify the Consolidated Financial Statements for Holding Companies Report (FR Y–9C; OMB: 7100–0128) to collect information regarding the stress buffer requirements applicable to a firm and the Capital Assessments and Stress Testing Report (FR Y–14A; OMB No. 7100–0341). Specifically, the proposal would add new line items to the quarterly FR Y–9C in order to collect information regarding a firm’s stress capital buffer requirement, stress leverage buffer requirement, and GSIB surcharge and countercyclical capital buffer amount, as applicable, and information necessary to calculate a firm’s distribution limitations, including its capital conservation buffer, advanced approaches capital conservation buffer, leverage buffer, eligible retained income, and distributions. This information would enable the Board and the public to identify any distribution limitations and monitor a bank holding company’s performance on a quarterly basis.

The proposal would add similar items to the semi-annual FR Y–14A schedule to collect the information necessary to compare a firm’s projected capital ratios to expected buffer requirements and implement the proposed evaluation of planned capital actions under the BHC

baseline scenario.⁵¹ As described in section III.C above, the proposal provides that, within two business days of receipt of notice of its stress buffer requirements, a firm would be required to assess whether its planned capital distributions are consistent with the effective capital distribution limitations that would apply on a pro forma basis under the BHC baseline scenario throughout the fourth through seventh quarters of the planning horizon. In the event of an inconsistency, a firm would be required to reduce the capital distributions in its capital plan to be consistent with such limitations for those quarters of the planning horizon and provide the Board with its final planned capital actions following any such adjustments.⁵²

To implement this requirement, a firm would be required to report its capital distributions on the FR Y–14A filed in connection with its initial capital plan on April 5, and in the event of any downward adjustments to its planned capital distributions, resubmit the FR Y–14A summary schedule within two business days of receiving its stress buffer requirements, that reflect the stress buffer requirements and its reduced planned capital distributions.⁵³ At the time a firm submits its capital plan and FR Y–14 report (April 5), the firm will not be aware of its stress buffer requirements for the upcoming cycle. For simplicity, the instructions contemplate that the firm would report the stress buffer requirements currently in effect, and assume that the stress buffer requirements remain constant through the planning horizon. However, the capital plan rule requires the firm’s planned capital distributions to be consistent with effective capital distribution limitations in the fourth through seventh quarters of the planning horizon and not the distribution limitations in effect in the prior cycle. Thus, it would be possible for a firm to include planned capital distributions in its April 5 FR Y–14A

⁵¹ A firm generally would only be required to report this information annually in connection with its April 5 capital plan submission.

⁵² The proposal also permits a firm to reduce its planned capital distributions if the firm’s planned capital distributions are consistent with effective capital distribution limitations.

⁵³ In the event that a firm requests reconsideration of any of its stress buffer requirements, a firm must evaluate its planned capital distributions in light of any modifications any of the stress buffer requirements. The firm may be required to reduce or permitted to increase its capital distributions depending on any modifications, and must provide the Board with its final planned capital actions reflecting those adjustments. In the event of any adjustment, the firm would be required to file the FR Y–14A to reflect its revised planned capital distributions.

⁵⁰ See 12 CFR part 252, subpart F.

that would exceed those permitted under the previous cycle's capital plan, but be consistent with the capital plan rule because the firm's stress buffer requirements declined.

Question 25: The proposal would require all firms subject to the stress buffer requirements to report their eligible retained income and capital distributions and discretionary bonus payments each quarter on the FR Y-9C, which is publicly available. What concerns, if any, are raised by making this reporting mandatory? What concerns, if any, are raised by making this reporting public as opposed to including this information in a confidential information collection?

VII. Administrative Law Matters

A. Paperwork Reduction Act

In accordance with section 3512 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521) (PRA), the Board 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 Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The proposed rule would revise collection of information requirements subject to the PRA. As described further below, the proposal would revise the reporting requirements found in section 12 CFR 225.8. Additionally, the Board proposes to revise certain other collections of information to reflect the changes proposed in the proposed rule.

The OMB control numbers are 7100-0128, 7100-0341, and 7100-0342 for this information collection.

Comments are invited on:

a. Whether the collections of information are necessary for the proper performance of the Federal Reserve's functions, including whether the information has practical utility;

b. The accuracy or the estimate 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 startup costs and costs of operation, maintenance, and purchase of services to provide information.

All comment will become a matter of public record. Comments on aspects of

this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. A copy of the comments may also be submitted to the OMB desk officer by mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by facsimile to 202-3955806, Attention, Agency Desk Officer.

Proposed Revisions, With Extension for Three Years, of the Following Information Collections:

(1) *Title of Information Collection:* Consolidated Financial Statements for Holding Companies.

Agency Form Number: FR Y-9C; FR Y-9LP; FR Y-9SP; FR Y-9ES; FR Y-9CS.

OMB Control Number: 7100-0128.

Frequency of Response: Quarterly, semi-annually, and annually.

Affected Public: Businesses or other for-profit.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. intermediate holding companies (IHCs), (collectively, "holding companies").

Abstract: The FR Y-9C serves as standardized financial statements for holding companies. The FR Y-9 family of reporting forms continues to be the primary source of financial data on holding companies that examiners rely on in the intervals between on-site inspections. Financial data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate holding company mergers and acquisitions, and to analyze a holding company's overall financial condition to ensure the safety and soundness of its operations.

Current Actions: The proposal would modify the FR Y-9C for holding companies subject to the capital plan rule in order to collect information regarding a firm's stress capital buffer requirement, stress leverage buffer requirement, GSIB surcharge, countercyclical capital buffer amount, as applicable, and any applicable distribution limitations under the regulatory capital rule. Specifically, the proposal would add new line items to the FR Y-9C Schedule HC-R Part I to collect to collect the following information from holding companies subject to the capital plan rule: (1) The firm's capital conservation buffer requirements (including its

standardized approach capital conservation buffer requirement and the advanced approaches capital conservation buffer requirement), stress leverage buffer requirement, and SLR buffer requirement; (2) the firm's capital conservation buffer, advanced approaches capital conservation buffer, leverage buffer, and, as applicable, SLR buffer as of the preceding quarter-end, which is the difference between the firm's relevant capital ratio and the relevant minimum requirement; and (3) information needed to calculate the firm's maximum payout amount, including the firm's planned total capital distributions, eligible retained income, and maximum payout ratio. The proposed revision would apply to top-tier holding companies subject to the Board's capital plan rule (BHCs and IHCs with total consolidated assets of \$50 billion or more), for a total of 39 of the existing FR Y-9C respondents. The draft reporting forms and instructions for the FR Y-9C will be available at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

Number of Respondents: FR Y-9C (non-Advanced Approaches holding companies or other respondents): 632; FR Y-9C (Advanced Approaches holding companies or other respondents): 18; FR Y-9LP: 780; FR Y-9SP: 3,889; FR Y-9ES: 80; FR Y-9CS: 236.

Current Estimated Average Hours per Response: FR Y-9C (non-Advanced Approaches holding companies or other respondents): 47.11 hours; FR Y-9C (Advanced Approaches holding companies or other respondents): 48.36 hours; FR Y-9LP: 5.27 hours; FR Y-9SP: 5.4 hours; FR Y-9ES: 0.5 hours; FR Y-9CS: 0.5 hours.

Current Estimated Annual Burden Hours: FR Y-9C (non-Advanced Approaches holding companies or other respondents): 119,094 hours; FR Y-9C (Advanced Approaches holding companies or other respondents): 3,482 hours; FR Y-9LP: 16,442 hours; FR Y-9SP: 42,001; FR Y-9ES: 40; FR Y-9CS: 472.

Proposed Change in Estimated Annual Burden Hours: FR Y-9C: 1,188 hours (an increase of 0.26 hours per response for FR Y-9C (non-Advanced Approaches holding companies or other respondents) and an increase of 8 hours per response for FR Y-9C (Advanced Approaches holding companies or other respondents)).

Proposed Total Estimated Annual Burden Hours: FR Y-9C (non-Advanced Approaches holding companies or other respondents): 119,751 hours; FR Y-9C (Advanced Approaches holding companies or other respondents): 4,058

hours; FR Y–9LP: 16,442 hours; FR Y–9SP: 42,001; FR Y–9ES: 40; FR Y–9CS: 472.

(2) *Title of Information Collection:* Capital Assessments and Stress Testing information collection.

Agency Form Number: FR Y–14A/Q/M.

OMB Control Number: 7100–0341.

Frequency of Response: Annually, semi-annually, quarterly, and monthly.

Affected Public: Businesses or other for-profit.

Respondents: The respondent panel consists of any top-tier bank holding company (BHC) or intermediate holding company (IHC) that has \$50 billion or more in total consolidated assets, as determined based on: (i) The average of the firm's total consolidated assets in the four most recent quarters as reported quarterly on the firm's Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) (OMB No. 7100–0128); or (ii) the average of the firm's total consolidated assets in the most recent consecutive quarters as reported quarterly on the firm's FR Y–9Cs, if the firm has not filed an FR Y–9C for each of the most recent four quarters. Reporting is required as of the first day of the quarter immediately following the quarter in which it meets this asset threshold, unless otherwise directed by the Board.

Abstract: The data collected through the FR Y–14A/Q/M schedules provide the Board with the information and perspective needed to help ensure that large BHCs and IHCs have strong, firm-wide risk measurement and management processes supporting their internal assessments of capital adequacy and that their capital resources are sufficient given their business focus, activities, and resulting risk exposures. The annual CCAR exercise is complemented by other Board supervisory efforts aimed at enhancing the continued viability of large firms, including continuous monitoring of firms' planning and management of liquidity and funding resources and regular assessments of credit, market and operational risks, and associated risk management practices. Information gathered in this data collection is also used in the supervision and regulation of these financial institutions.

The Capital Assessments and Stress Testing information collection consists of the FR Y–14A, FR Y–14Q, and FR Y–14M reports. The semi-annual FR Y–14A collects quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal

projections of capital across scenarios.⁵⁴ The quarterly FR Y–14Q collects granular data on various asset classes, including loans, securities, and trading assets, and pre-provision net revenue (PPNR) for the reporting period. The monthly FR Y–14M comprises three retail portfolio- and loan-level collections, and one detailed address matching collection to supplement two of the portfolio and loan-level collections.

Current Actions: The proposal would modify the FR Y–14 reports in order to collect information regarding a firm's capital conservation buffer requirements (including the stress buffer requirements) and any applicable distribution limitations under the regulatory capital rule. The proposal would add new line items to the semi-annual FR Y–14A, Schedule A (Summary—Capital) to collect information regarding a firm's projections under BHC baseline conditions. Specifically, the FR Y–14A would be revised to collect the following: (1) The firm's capital conservation buffer requirements (including its standardized approach capital conservation buffer requirement and the advanced approaches capital conservation buffer requirement), stress leverage buffer requirement, and SLR buffer requirement for each quarter of the planning horizon; (2) the firm's capital conservation buffer, advanced approaches capital conservation buffer, leverage buffer, and, as applicable, SLR buffer as of the preceding quarter-end for each quarter of the planning horizon, which is the difference between the firm's relevant capital ratio and the relevant minimum requirement; and (3) information needed to calculate the firm's maximum payout amount, including the firm's planned total capital distributions, eligible retained income, and maximum payout ratio for each quarter of the planning horizon. The draft reporting forms and instructions for the FR Y–14 will be available at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

Number of Respondents: 39.

Current Estimated Average Hours per Response: FR Y–14A: Summary, 887 hours; Macro scenario, 31 hours; Operational Risk, 18 hours; Regulatory capital instruments, 21 hours; and Business plan changes, 16 hours; Adjusted Capital Submission, 100 hours. FR Y–14Q: Retail, 15 hours;

Securities, 13 hours; PPNR, 711 hours; Wholesale, 151 hours; Trading, 1,926 hours; Regulatory capital transitions, 23 hours; Regulatory capital instruments, 54 hours; Operational risk, 50 hours; MSR Valuation, 23 hours; Supplemental, 4 hours; Retail FVO/HFS, 15 hours; CCR, 514 hours; and Balances, 16 hours. FR Y–14M: 1st lien mortgage, 516 hours; Home equity, 516 hours; and Credit card, 512 hours. FR Y–14 On-Going automation revisions, 480 hours; and implementation, 7,200 hours. FR Y–14 Attestation: Implementation, 4,800 hours; and on-going, 2,560 hours.

Current Estimated Annual Burden Hours: FR Y–14A: Summary, 69,186 hours; Macro scenario, 2,418 hours; Operational Risk, 702 hours; Regulatory capital instruments, 819 hours; Business plan changes, 624 hours; and Adjusted Capital Submission, 500 hours. FR Y–14Q: Retail, 2,340; Securities, 2,028 hours; Pre-provision net revenue (PPNR), 110,916 hours; Wholesale, 23,556 hours; Trading, 92,448 hours; Regulatory capital transitions, 3,588 hours; Regulatory capital instruments, 8,424 hours; Operational risk, 7,800 hours; Mortgage Servicing Rights (MSR) Valuation, 1,380 hours; Supplemental, 624 hours; and Retail Fair Value Option/Held for Sale (Retail FVO/HFS), 1,500 hours; Counterparty, 24,672 hours; and Balances, 2,496 hours. FR Y–14M: 1st lien mortgage, 229,104 hours; Home equity, 191,952 hours; and Credit card, 110,592 hours. FR Y–14 On-going automation revisions, 18,720 hours; and implementation, 0 hours. FR Y–14 Attestation: Implementation, 0 hours; and on-going, 33,280 hours.

Proposed Change in Estimated Annual Burden Hours: FR Y–14A: 780 hours (20 additional hours annually for the 39 FR Y–14 filers).

Proposed Total Estimated Annual Burden Hours: FR Y–14A: Summary, 69,966 hours; Macro scenario, 2,418 hours; Operational Risk, 702 hours; Regulatory capital instruments, 819 hours; Business plan changes, 624 hours; and Adjusted Capital Submission, 500 hours. FR Y–14Q: Retail, 2,340; Securities, 2,028 hours; Pre-provision net revenue (PPNR), 110,916 hours; Wholesale, 23,556 hours; Trading, 92,448 hours; Regulatory capital transitions, 3,588 hours; Regulatory capital instruments, 8,424 hours; Operational risk, 7,800 hours; Mortgage Servicing Rights (MSR) Valuation, 1,380 hours; Supplemental, 624 hours; and Retail Fair Value Option/Held for Sale (Retail FVO/HFS), 1,500 hours; Counterparty, 24,672 hours; and Balances, 2,496 hours. FR Y–14M: 1st lien mortgage, 229,104 hours;

⁵⁴ A bank holding company that must re-submit its capital plan generally also must provide a revised FR Y–14A in connection with its resubmission.

Home equity, 191,952 hours; and Credit card, 110,592 hours. FR Y-14 On-going automation revisions, 18,720 hours; and implementation, 0 hours. FR Y-14 Attestation: Implementation, 0 hours; and on-going, 33,280 hours.

(3) *Title of Information Collection:* Recordkeeping and Reporting Requirements Associated with Regulation Y (Capital Plans).

Agency Form Number: Reg Y-13.

OMB Control Number: 7100-0342.

Frequency of Response: Annually.

Affected Public: Businesses or other for-profit.

Respondents: BHCs and IHCs.

Abstract: Regulation Y (12 CFR part 225) requires large bank holding companies (BHCs) to submit capital plans to the Federal Reserve on an annual basis and to require such BHCs to request prior approval from the Federal Reserve under certain circumstances before making a capital distribution.

Current Actions: The proposal would modify the capital plan rule in Regulation Y by introducing stress buffer requirements and providing for new procedures regarding their implementation. This includes adding § 225.8(h)(3)(i), which would require a firm to determine whether capital distributions for the fourth through seventh quarters of the planning horizon under the BHC baseline scenario included in the capital plan submitted pursuant to paragraph (e)(1)(ii) would be consistent with effective capital distribution limitations, assuming the stress buffer requirements, and reduce its distributions as necessary to be consistent with such capital distribution limitations.

Number of Respondents: 39.

Current Estimated Average Hours per Response: Annual capital planning recordkeeping (§ 225.8(e)(1)(i)) (LISCC and large and complex firms), 11,920 hours; Annual capital planning recordkeeping (§ 225.8(e)(1)(i)) (large and noncomplex firms), 8,920 hours; annual capital planning reporting (§ 225.8(e)(1)(ii)), 80 hours; annual capital planning recordkeeping (§ 225.8(e)(1)(iii)), 100 hours; data collections reporting (§ 225.8(e)(3)(i)-(vi)), 1,005 hours; data collections reporting (§ 225.8(e)(4)), 100 hours; review of capital plans by the Federal Reserve reporting (§ 225.8(j)), 16 hours; prior approval request requirements reporting (§ 225.8(k)(1), (3), & (4)), 100 hours; prior approval request requirements exceptions (§ 225.8(k)(3)(iii)(A)), 16 hours; prior approval request requirements reports (§ 225.8(k)(6)), 16 hours.

Current Estimated Annual Burden Hours: Annual capital planning recordkeeping (§ 225.8(e)(1)(i)) (LISCC and large and complex firms), 238,400 hours; Annual capital planning recordkeeping (large and complex firms) (§ 225.8(e)(1)(i)) (large and noncomplex firms), 160,560 hours; annual capital planning reporting (§ 225.8(e)(1)(ii)), 2,240 hours; annual capital planning recordkeeping (§ 225.8(e)(1)(iii)), 2,800 hours; data collections reporting (§ 225.8(e)(3)(i)-(vi)), 38,190 hours; data collections reporting (§ 225.8(e)(4)), 1,000 hours; review of capital plans by the Federal Reserve reporting (§ 225.8(j)), 32 hours; prior approval request requirements reporting (§ 225.8(k)(1), (3), & (4)), 2,600 hours; prior approval request requirements exceptions (§ 225.8(k)(3)(iii)(A)), 32 hours; prior approval request requirements reports (§ 225.8(k)(6)), 32 hours.

Proposed Change in Estimated Average Hours per Response: Proposed response to notice; adjustments to planned capital distributions (recordkeeping) (§ 225.8(h)(3)(i)), 2 hours.

Proposed Total Estimated Annual Burden Hours: Annual capital planning recordkeeping (§ 225.8(e)(1)(i)) (LISCC and large and complex firms), 238,400 hours; Annual capital planning recordkeeping (§ 225.8(e)(1)(i)) (large and noncomplex firms), 160,560 hours; annual capital planning reporting (§ 225.8(e)(1)(ii)), 2,240 hours; annual capital planning recordkeeping (§ 225.8(e)(1)(iii)), 2,800 hours; data collections reporting (§ 225.8(e)(3)(i)-(vi)), 38,190 hours; data collections reporting (§ 225.8(e)(4)), 1,000 hours; proposed response to notice: Adjustments to planned capital distributions (recordkeeping) (§ 225.8(h)(3)(i)), 78 hours; prior approval request requirements reporting (§ 225.8(k)(1), (3), & (4)), 2,600 hours; prior approval request requirements exceptions (§ 225.8(k)(3)(iii)(A)), 32 hours; prior approval request requirements reports (§ 225.8(k)(6)), 32 hours.

B. Regulatory Flexibility Act

The Board is providing an initial regulatory flexibility analysis with respect to this proposed rule. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, (RFA), requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.⁵⁵ In connection with a

proposed rule, the RFA requires an agency to prepare an Initial Regulatory Flexibility Analysis describing the impact of the rule on small entities or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis must contain (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish its stated objectives.

The Board has considered the potential impact of the proposed rule on small entities in accordance with the RFA. Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing and inviting comment on this initial regulatory flexibility analysis. A final regulatory flexibility analysis will be conducted after comments received during the public comment period have been considered. The proposal would also make corresponding changes to the Board's reporting forms.

As discussed in detail above, the proposed rule would amend the capital rule, capital plan rule, stress testing rules, and the proposed Stress Testing Policy Statement, that was previously proposed on December 15, 2017. Under the proposed rule, the Board would use the results of the supervisory stress test to establish the size of a firm's stress capital buffer requirement and stress leverage buffer requirement. The stress capital buffer requirement would replace the static 2.5 percent of standardized risk-weighted assets

institution, bank holding company, or savings and loan holding company with total assets of \$550 million or less and trust companies with total assets of \$38.5 million or less. As of December 31, 2017, there were approximately 3,384 small bank holding companies, 230 small savings and loan holding companies, and 553 small state member banks.

⁵⁵ Under regulations issued by the Small Business Administration, a small entity includes a depository

component of a firm's capital conservation buffer requirement in the capital rule. As under the current capital rule, a firm would be subject to increasingly strict limitations on capital distributions and bonus payments as the firm's capital ratios decline below the firm's buffer requirements. The proposal would also make adjustments to the assumptions used in the supervisory stress test and would replace the capital plan rule's quantitative objection.

The Board has broad authority under the International Lending Supervision Act (ILSA)⁵⁶ and the PCA provisions of the Federal Deposit Insurance Act⁵⁷ to establish regulatory capital requirements for the institutions it regulates. For example, ILSA directs each Federal banking agency to cause banking institutions to achieve and maintain adequate capital by establishing minimum capital requirements as well as by other means that the agency deems appropriate.⁵⁸ The PCA provisions of the Federal Deposit Insurance Act direct each Federal banking agency to specify, for each relevant capital measure, the level at which an IDI subsidiary is well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized.⁵⁹ In addition, the Board has broad authority to establish regulatory capital standards for bank holding companies under the Bank Holding Company Act and the Dodd-Frank Reform and Consumer Protection Act (Dodd-Frank Act).⁶⁰

The proposed rule would apply only to bank holding companies with total consolidated assets of \$50 billion or more, any nonbank financial company supervised by the Board that becomes subject to the capital planning requirements pursuant to a rule or order of the Board, and to U.S. intermediate holding companies established pursuant to the Board's Regulation YY. Currently, all nonbank financial companies supervised by the Board are not subject to the capital planning requirements and all U.S. intermediate holding companies established pursuant to Regulation YY have greater than \$1 billion in total assets. The proposed rule would not apply to any small entities. Further, the proposal would make changes to the projected reporting, recordkeeping, and other compliance requirements of the rule by proposing to collect information from firms subject to

the capital plan rule relating to adjustments to planned capital distributions included in a firm's capital plan and information regarding a firm's capital conservation buffer requirements (including the stress buffer requirements) and any applicable distribution limitations under the capital rule. These changes would not impact small entities. In addition, the Board is aware of no other Federal rules that duplicate, overlap, or conflict with the proposed changes to the capital rule, capital plan rule, and stress testing rules. Therefore, 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 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. In particular, the Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

C. Solicitation of Comments of Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposed rule in a simple and straightforward manner, and invites comment on the use of plain language.

For example:

- Have we organized the material to suit your needs? If not, how could the rule be more clearly stated?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would make the regulation easier to understand?
- Would more, but shorter, sections be better? If so, which sections should be changed?
- What else could we do to make the regulation easier to understand?

List of Subjects

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

12 CFR Part 252

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

Authority and Issuance

For the reasons stated in the **SUPPLEMENTARY INFORMATION**, the Board of Governors of the Federal Reserve System proposes to amend 12 CFR chapter II as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

- 1. 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–1, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

Subpart B—Capital Ratio Requirements and Buffers

- 2. Section 217.11 is revised to read as follows:

§ 217.11 Capital conservation buffer, countercyclical capital buffer amount, and GSIB surcharge.

(a) *Capital conservation buffer*—(1) *Composition of the capital conservation buffer.* The capital conservation buffer is composed solely of common equity tier 1 capital.

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

(i) *Eligible retained income.* The eligible retained income of a Board-regulated institution is the Board-regulated institution's net income, calculated in accordance with the instructions to the Call Report or the FR Y–9C, as applicable, for the four calendar quarters preceding the current calendar quarter net of any distributions and associated tax effects not already reflected in net income.

⁵⁶ 12 U.S.C. 3901–3911.

⁵⁷ 12 U.S.C. 1831o.

⁵⁸ 12 U.S.C. 3907(a)(1).

⁵⁹ 12 U.S.C. 1831o(c)(2).

⁶⁰ See, e.g., sections 165 and 171 of the Dodd-Frank Act (12 U.S.C. 5365 and 12 U.S.C. 5371). Public Law 111–203, 124 Stat. 1376 (2010).

(ii) *Maximum payout amount.* A Board-regulated institution's maximum payout amount for the current calendar quarter is equal to the Board-regulated institution's eligible retained income, multiplied by its maximum payout ratio.

(iii) *Maximum payout ratio.* The maximum payout ratio is the percentage of eligible retained income that a Board-regulated institution can pay out in the form of distributions and discretionary bonus payments during the current calendar quarter. For a Board-regulated institution that is not subject to 12 CFR 225.8, the maximum payout ratio is determined by the Board-regulated institution's capital conservation buffer, calculated as of the last day of the previous calendar quarter, as set forth in Table 1 to this section. For a Board-regulated institution that is subject to 12 CFR 225.8, the maximum payout ratio is determined under paragraph (c)(1)(ii) of this section.

(iv) *Private sector credit exposure.* Private sector credit exposure means an exposure to a company or an individual that is not an exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, a MDB, a PSE, or a GSE.

(v) *SLR buffer requirement.* A bank holding company's SLR buffer requirement is 2.0 percent.

(vi) *Stress capital buffer requirement.* A bank holding company's stress capital buffer requirement is the stress capital buffer requirement determined under 12 CFR 225.8.

(vii) *Stress leverage buffer requirement.* A bank holding company's

stress leverage buffer requirement is the stress leverage buffer requirement determined under 12 CFR 225.8.

(3) *Calculation of capital conservation buffer.* (i) A Board-regulated institution that is not subject to 12 CFR 225.8 has a capital conservation buffer equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter:

(A) The Board-regulated institution's common equity tier 1 capital ratio minus the Board-regulated institution's minimum common equity tier 1 capital ratio requirement under § 217.10;

(B) The Board-regulated institution's tier 1 capital ratio minus the Board-regulated institution's minimum tier 1 capital ratio requirement under § 217.10; and

(C) The Board-regulated institution's total capital ratio minus the Board-regulated institution's minimum total capital ratio requirement under § 217.10; or

(ii) Notwithstanding paragraphs (a)(3)(i)(A) through (C) of this section, if the Board-regulated institution's common equity tier 1, tier 1 or total capital ratio is less than or equal to the Board-regulated institution's minimum common equity tier 1, tier 1 or total capital ratio requirement under § 217.10, respectively, the Board-regulated institution's capital conservation buffer is zero.

(4) *Limits on distributions and discretionary bonus payments—(i) General limitation.* A Board-regulated institution that is not subject to 12 CFR 225.8 shall not make distributions or discretionary bonus payments or create an obligation to make such distributions or payments during the current calendar

quarter that, in the aggregate, exceed its maximum payout amount.

(ii) *No limitations.* A Board-regulated institution that is not subject to 12 CFR 225.8 and that has a capital conservation buffer that is greater than 2.5 percent plus 100 percent of its applicable countercyclical capital buffer amount in accordance with paragraph (b) of this section is not subject to a maximum payout amount under paragraph (a)(2)(ii) of this section.

(iii) *Negative eligible retained income.* Except as provided in paragraph (a)(4)(iv) of this section, a Board-regulated institution that is not subject to 12 CFR 225.8 may not make distributions or discretionary bonus payments during the current calendar quarter if the Board-regulated institution's:

(A) Eligible retained income is negative; and

(B) Capital conservation buffer was less than 2.5 percent as of the end of the previous calendar quarter.

(iv) *Prior approval.* Notwithstanding the limitations in paragraphs (a)(4)(i) through (iii) of this section, the Board may permit a Board-regulated institution that is not subject to 12 CFR 225.8 to make a distribution or discretionary bonus payment upon a request of the Board-regulated institution, if the Board determines that the distribution or discretionary bonus payment would not be contrary to the purposes of this section, or to the safety and soundness of the Board-regulated institution. In making such a determination, the Board will consider the nature and extent of the request and the particular circumstances giving rise to the request.

TABLE 1 TO § 217.11—CALCULATION OF MAXIMUM PAYOUT AMOUNT

Capital conservation buffer	Maximum payout ratio
Greater than 2.5 percent plus 100 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	No payout ratio limitation applies.
Less than or equal to 2.5 percent plus 100 percent of the Board-regulated institution's applicable countercyclical capital buffer amount, and greater than 1.875 percent plus 75 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	60 percent.
Less than or equal to 1.875 percent plus 75 percent of the Board-regulated institution's applicable countercyclical capital buffer amount, and greater than 1.25 percent plus 50 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	40 percent.
Less than or equal to 1.25 percent plus 50 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and greater than 0.625 percent plus 25 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	20 percent.
Less than or equal to 0.625 percent plus 25 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	0 percent.

(v) *Other limitations on distributions.* Additional limitations on distributions may apply under 12 CFR 225.4 and 263.202 to a Board-regulated institution that is not subject to 12 CFR 225.8.

(b) *Countercyclical capital buffer amount—(1) General.* An advanced approaches Board-regulated institution must calculate a countercyclical capital buffer amount in accordance with this

paragraph (b) for purposes of determining its maximum payout ratio under Table 1 to this section and, if applicable, Table 2 to this section.

(i) *Extension of capital conservation buffer.* The countercyclical capital buffer amount is an extension of the capital conservation buffer as described in paragraph (a) or (c) of this section, as applicable.

(ii) *Amount.* An advanced approaches Board-regulated institution has a countercyclical capital buffer amount determined by calculating the weighted average of the countercyclical capital buffer amounts established for the national jurisdictions where the Board-regulated institution's private sector credit exposures are located, as specified in paragraphs (b)(2) and (3) of this section.

(iii) *Weighting.* The weight assigned to a jurisdiction's countercyclical capital buffer amount is calculated by dividing the total risk-weighted assets for the Board-regulated institution's private sector credit exposures located in the jurisdiction by the total risk-weighted assets for all of the Board-regulated institution's private sector credit exposures. The methodology a Board-regulated institution uses for determining risk-weighted assets for purposes of this paragraph (b) must be the methodology that determines its risk-based capital ratios under § 217.10. Notwithstanding the previous sentence, the risk-weighted asset amount for a private sector credit exposure that is a covered position under subpart F of this part is its specific risk add-on as determined under § 217.210 multiplied by 12.5.

(iv) *Location.* (A) Except as provided in paragraphs (b)(1)(iv)(B) and (C) of this section, the location of a private sector credit exposure is the national jurisdiction where the borrower is located (that is, where it is incorporated, chartered, or similarly established or, if the borrower is an individual, where the borrower resides).

(B) If, in accordance with subpart D or E of this part, the Board-regulated institution has assigned to a private sector credit exposure a risk weight associated with a protection provider on a guarantee or credit derivative, the location of the exposure is the national jurisdiction where the protection provider is located.

(C) The location of a securitization exposure is the location of the underlying exposures, or, if the underlying exposures are located in more than one national jurisdiction, the national jurisdiction where the underlying exposures with the largest aggregate unpaid principal balance are located. For purposes of this paragraph (b), the location of an underlying exposure shall be the location of the

borrower, determined consistent with paragraph (b)(1)(iv)(A) of this section.

(2) *Countercyclical capital buffer amount for credit exposures in the United States—(i) Initial countercyclical capital buffer amount with respect to credit exposures in the United States.* The initial countercyclical capital buffer amount in the United States is zero.

(ii) *Adjustment of the countercyclical capital buffer amount.* The Board will adjust the countercyclical capital buffer amount for credit exposures in the United States in accordance with applicable law.¹⁰

(iii) *Range of countercyclical capital buffer amount.* The Board will adjust the countercyclical capital buffer amount for credit exposures in the United States between zero percent and 2.5 percent of risk-weighted assets.

(iv) *Adjustment determination.* The Board will base its decision to adjust the countercyclical capital buffer amount under this section on a range of macroeconomic, financial, and supervisory information indicating an increase in systemic risk including, but not limited to, the ratio of credit to gross domestic product, a variety of asset prices, other factors indicative of relative credit and liquidity expansion or contraction, funding spreads, credit condition surveys, indices based on credit default swap spreads, options implied volatility, and measures of systemic risk.

(v) *Effective date of adjusted countercyclical capital buffer amount—*

(A) *Increase adjustment.* A determination by the Board under paragraph (b)(2)(ii) of this section to increase the countercyclical capital buffer amount will be effective 12 months from the date of announcement, unless the Board establishes an earlier effective date and includes a statement articulating the reasons for the earlier effective date.

(B) *Decrease adjustment.* A determination by the Board to decrease the established countercyclical capital buffer amount under paragraph (b)(2)(ii) of this section will be effective on the day following announcement of the final determination or the earliest date permissible under applicable law or regulation, whichever is later.

(vi) *Twelve month sunset.* The countercyclical capital buffer amount will return to zero percent 12 months after the effective date that the adjusted countercyclical capital buffer amount is announced, unless the Board announces a decision to maintain the adjusted

countercyclical capital buffer amount or adjust it again before the expiration of the 12-month period.

(3) *Countercyclical capital buffer amount for foreign jurisdictions.* The Board will adjust the countercyclical capital buffer amount for private sector credit exposures to reflect decisions made by foreign jurisdictions consistent with due process requirements described in paragraph (b)(2) of this section.

(c) *Calculation of buffers for Board-regulated institutions subject to 12 CFR 225.8—(1) Limits on distributions and discretionary bonus payments.* (i) A Board-regulated institution that is subject to 12 CFR 225.8 shall not make distributions or discretionary bonus payments or create an obligation to make such distributions or payments during the current calendar quarter that, in the aggregate, exceed its maximum payout amount.

(ii) *Maximum payout ratio.* The maximum payout ratio of a Board-regulated institution that is subject to 12 CFR 225.8 is the lowest of the following ratios determined by its standardized approach capital conservation buffer, leverage buffer; if applicable, advanced approaches capital conservation buffer; and, if applicable, SLR buffer; as set forth in Table 2 to this section.

(iii) *Capital conservation buffer requirements.* A Board-regulated institution that is subject to 12 CFR 225.8 has:

(A) A standardized approach capital conservation buffer requirement equal to its stress capital buffer requirement plus its applicable countercyclical capital buffer amount in accordance with paragraph (b) of this section plus its applicable GSIB surcharge in accordance with paragraph (d) of this section; and

(B) If the Board-regulated institution calculates risk-weighted assets under subpart E of this part, an advanced approaches capital conservation buffer requirement equal to 2.5 percent plus the Board-regulated institution's countercyclical capital buffer amount in accordance with paragraph (b) of this section plus its applicable GSIB surcharge in accordance with paragraph (d) of this section.

(iv) *No maximum payout amount limitation.* A Board-regulated institution that is subject to 12 CFR 225.8 is not subject to a maximum payout amount under paragraph (a)(2)(ii) of this section if it has:

(A) A standardized approach capital conservation buffer, calculated under paragraph (c)(2) of this section, that is greater than its standardized approach capital conservation buffer requirement

¹⁰ The Board expects that any adjustment will be based on a determination made jointly by the Board, OCC, and FDIC.

calculated under paragraph (c)(1)(iii)(A) of this section;

(B) If applicable, an advanced approaches capital conservation buffer, calculated under paragraph (c)(3) of this section, that is greater than the Board-regulated institution's advanced approaches capital conservation buffer requirement calculated under paragraph (c)(1)(iii)(B) of this section; and

(C) A leverage buffer, calculated under paragraph (c)(4) of this section, that is greater than its stress leverage buffer requirement calculated under paragraph (a)(2)(vii) of this section; and

(D) If applicable, a SLR buffer, calculated under paragraph (c)(5) of this section, that is greater than its SLR buffer requirement as calculated under paragraph (a)(2)(v) of this section.

(v) *Negative eligible retained income.* Except as provided in paragraph (c)(1)(vi) of this section, a Board-regulated institution that is subject to 12 CFR 225.8 may not make distributions or discretionary bonus payments during the current calendar quarter if, as of the end of the previous calendar quarter, the Board-regulated institution's:

(A) Eligible retained income is negative; and

(B)(1) Standardized approach capital conservation buffer was less than its stress capital buffer requirement; or

(2) If applicable, advanced approaches capital conservation buffer was less than 2.5 percent; or

(3) Leverage buffer was less than its stress leverage buffer requirement; or

(4) If applicable, SLR buffer was less than its SLR buffer requirement.

(vi) *Prior approval.* Notwithstanding the limitations in paragraphs (c)(1)(i) through (v) of this section, the Board may permit a Board-regulated institution that is subject to 12 CFR 225.8 to make a distribution or discretionary bonus payment upon a request of the Board-regulated institution, if the Board determines that the distribution or discretionary bonus payment would not be contrary to the purposes of this section, or to the safety and soundness of the Board-regulated institution. In making such a determination, the Board will consider the nature and extent of the request and the particular circumstances giving rise to the request.

(v) *Other limitations on distributions.* Additional limitations on distributions

may apply under 12 CFR 225.4, 225.8, 252.63, 252.165, and 263.202 to a Board-regulated institution that is subject to 12 CFR 225.8.

(2) *Standardized approach capital conservation buffer.* (i) The standardized approach capital conservation buffer for Board-regulated institutions subject to 12 CFR 225.8 is composed solely of common equity tier 1 capital.

(ii) A Board-regulated institution that is subject to 12 CFR 225.8 has a standardized approach capital conservation buffer that is equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter:

(A) The ratio calculated by the Board-regulated institution under § 217.10(b)(1) or (c)(1)(i), as applicable, minus the Board-regulated institution's minimum common equity tier 1 capital ratio requirement under § 217.10(a);

(B) The ratio calculated by the Board-regulated institution under § 217.10(b)(2) or (c)(2)(i), as applicable, minus the Board-regulated institution's minimum tier 1 capital ratio requirement under § 217.10(a); and

(C) The ratio calculated by the Board-regulated institution under § 217.10(b)(3) or (c)(3)(i), as applicable, minus the Board-regulated institution's minimum total capital ratio requirement under § 217.10(a).

(iii) Notwithstanding paragraph (c)(2)(ii) of this section, if any of the ratios calculated by the Board-regulated institution under § 217.10(b)(1), (2), or (3), or if applicable § 217.10(c)(1)(i), (c)(2)(i), or (c)(3)(i) is less than or equal to the Board-regulated institution's minimum common equity tier 1 capital ratio, tier 1 capital ratio, or total capital ratio requirement under § 217.10(a), respectively, the Board-regulated institution's capital conservation buffer is zero.

(3) *Advanced approaches capital conservation buffer.* (i) The advanced approaches capital conservation buffer is composed solely of common equity tier 1 capital.

(ii) A Board-regulated institution that calculates risk-weighted assets under subpart E of this part has an advanced approaches capital conservation buffer that is equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter:

(A) The ratio calculated by the Board-regulated institution under § 217.10(c)(1)(ii) minus the Board-regulated institution's minimum common equity tier 1 capital ratio requirement under § 217.10(a);

(B) The ratio calculated by the Board-regulated institution under § 217.10(c)(2)(ii) minus the Board-regulated institution's minimum tier 1 capital ratio requirement under § 217.10(a); and

(C) The ratio calculated by the Board-regulated institution under § 217.10(c)(3)(ii) minus the Board-regulated institution's minimum total capital ratio requirement under § 217.10(a).

(iii) Notwithstanding paragraphs (c)(3)(ii) of this section, if any of the ratios calculated by the Board-regulated institution under § 217.10(c)(1)(ii), (c)(2)(ii), or (c)(3)(ii) is less than or equal to the Board-regulated institution's minimum common equity tier 1 capital ratio, tier 1 capital ratio, or total capital ratio requirement under § 217.10(a), respectively, the Board-regulated institution's advanced approaches capital conservation buffer is zero.

(4) *Leverage buffer.* (i) The leverage buffer is composed solely of tier 1 capital.

(ii) A Board-regulated institution has a leverage buffer that is equal to the Board-regulated institution's leverage ratio minus 4 percent, calculated as of the last day of the previous calendar quarter.

(iii) Notwithstanding paragraph (c)(4)(ii) of this section, if the Board-regulated institution's leverage ratio is less than or equal to 4 percent, the Board-regulated institution's leverage buffer is zero.

(5) *SLR buffer.* (i) The SLR buffer is composed solely of tier 1 capital.

(ii) A global systemically important BHC has a SLR buffer that is equal to the global systemically important BHC's supplementary leverage ratio minus 3 percent, calculated as of the last day of the previous calendar quarter.

(iii) Notwithstanding paragraph (c)(5)(ii) of this section, if the global systemically important BHC's supplementary leverage ratio is less than or equal to 3 percent, the global systemically important BHC's SLR buffer is zero.

TABLE 2 TO § 217.11—CALCULATION OF MAXIMUM PAYOUT RATIO

Capital buffer ¹	Payout ratio
Greater than the Board-regulated institution's buffer requirement ²	No payout ratio limitation applies.

TABLE 2 TO § 217.11—CALCULATION OF MAXIMUM PAYOUT RATIO—Continued

Capital buffer ¹	Payout ratio
Less than or equal to 100 percent of the Board-regulated institution's buffer requirement, <i>and</i> greater than 75 percent of the Board-regulated institution's buffer requirement.	60 percent.
Less than or equal to 75 percent of the Board-regulated institution's buffer requirement, <i>and</i> greater than 50 percent of the bank holding company's buffer requirement.	40 percent.
Less than or equal to 50 percent of the Board-regulated institution's buffer requirement, <i>and</i> greater than 25 percent of the Board-regulated institution's buffer requirement.	20 percent.
Less than or equal to 25 percent of the Board-regulated institution's buffer requirement	0 percent.

¹ A Board-regulated institution's "capital buffer" means each of, as applicable, its standardized approach capital conservation buffer, leverage buffer, advanced approaches capital conservation buffer, and SLR buffer.

² A Board-regulated institution's "buffer requirement" means each of, as applicable, its standardized approach capital conservation buffer requirement, stress leverage buffer requirement, advanced approaches capital conservation buffer requirement, and SLR buffer requirement.

(d) *GSIB surcharge.* A global systemically important BHC must use its GSIB surcharge calculated in accordance with subpart H of this part for purposes of determining its maximum payout ratio under Table 2 to this section.

Subpart G—Transition Provisions

■ 3. In § 217.300, add paragraph (g) to read as follows:

§ 217.300 Transitions.

* * * * *

(g) *Implementation of stress capital buffer requirement and stress leverage buffer requirement.* Notwithstanding any other requirement in § 217.11, unless and until a Board-regulated institution subject to 12 CFR 225.8 has received a stress capital buffer requirement from the Board calculated pursuant to 12 CFR 225.8, for purposes of § 217.11 its stress capital buffer requirement is equal to 2.5 percent; and, unless a Board-regulated institution subject to 12 CFR 225.8 has received a stress leverage buffer requirement, for purposes of § 217.11 its stress leverage buffer requirement is zero.

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

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

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

Subpart A—General Provisions

■ 5. Section 225.8 is revised to read as follows:

§ 225.8 Capital planning and stress capital and leverage buffer requirements.

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

companies. This section also establishes the Board's process for determining the stress buffer requirements for these bank holding companies.

(b) *Scope and reservation of authority—(1) Applicability.* Except as provided in paragraph (c) of this section, this section applies to:

(i) Any top-tier bank holding company domiciled in the United States with average total consolidated assets of \$50 billion or more (\$50 billion asset threshold);

(ii) Any other bank holding company domiciled in the United States that is made subject to this section, in whole or in part, by order of the Board;

(iii) Any U.S. intermediate holding company subject to this section pursuant to 12 CFR 252.153; and

(iv) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

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

(3) *Ongoing applicability.* A bank holding company (including any successor bank holding company) that is subject to any requirement in this section shall remain subject to such requirements unless and until its total consolidated assets fall below \$50 billion for each of four consecutive

quarters, as reported on the FR Y–9C and effective on the as-of date of the fourth consecutive FR Y–9C.

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

(5) *Rule of construction.* Unless the context otherwise requires, any reference to bank holding company in this section shall include a U.S. intermediate holding company and shall include a nonbank financial company supervised by the Board to the extent this section is made applicable pursuant to a rule or order of the Board.

(6) *Application of this section by order.* The Board may apply this section, in whole or in part, to a bank holding company by order based on the institution's size, level of complexity, risk profile, scope of operations, or financial condition.

(c) *Transitional arrangements—(1) Transition periods for certain bank holding companies.* (i) A bank holding company that meets the \$50 billion asset threshold (as measured under paragraph (b) of this section) on or before September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the next calendar year, unless that time is extended by the Board in writing.

(ii) A bank holding company that meets the \$50 billion asset threshold after September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the second calendar year after the bank holding company meets the \$50 billion asset threshold, unless that time is extended by the Board in writing.

(iii) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a bank holding company described in paragraph (c)(1)(i) or (ii) of this section to comply with any or all of the requirements in

paragraph (e)(1), (e)(3), (g), or (k) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

(2) *Transition periods for subsidiaries of certain foreign banking organizations*—(i) *U.S. intermediate holding companies*. (A) A U.S. intermediate holding company required to be established or designated pursuant to 12 CFR 252.153 on or before September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the next calendar year, unless that time is extended by the Board in writing.

(B) A U.S. intermediate holding company required to be established or designated pursuant to 12 CFR 252.153 after September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the second calendar year after the U.S. intermediate holding company is required to be established, unless that time is extended by the Board in writing.

(C) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a U.S. intermediate holding company described in paragraph (c)(2)(i)(A) or (B) of this section to comply with any or all of the requirements in paragraph (e)(1), (e)(3), (g), or (k) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

(ii) *Bank holding company subsidiaries of U.S. intermediate holding companies required to be established by July 1, 2016*. (A) Notwithstanding any other requirement in this section, a bank holding company that is a subsidiary of a U.S. intermediate holding company (or, with the mutual consent of the company and Board, another bank holding company domiciled in the United States) shall remain subject to paragraph (e) of this section until December 31, 2017, and shall remain subject to the requirements of paragraphs (g) and (k) of this section until the Board issues an objection or non-objection to the capital plan of the relevant U.S. intermediate holding company.

(B) After the time periods set forth in paragraph (c)(2)(ii)(A) of this section,

this section will cease to apply to a bank holding company that is a subsidiary of a U.S. intermediate holding company, unless otherwise determined by the Board in writing.

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

(1) *Additional tier 1 capital* has the same meaning as under 12 CFR part 217.

(2) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable.

(3) *Average total nonbank assets* means the average of the total nonbank assets, calculated in accordance with the instructions to the FR Y-9LP, for the four most recent consecutive quarters or, if the bank holding company has not filed the FR Y-9LP for each of the four most recent consecutive quarters, for the most recent quarter or consecutive quarters, as applicable.

(4) *BHC baseline scenario* means a scenario that reflects the bank holding company's reasonable expectation of the economic and financial outlook, including expectations related to the bank holding company's capital adequacy and financial condition.

(5) *BHC stress scenario* means a scenario designed by a bank holding company that stresses the specific vulnerabilities of the bank holding company's risk profile and operations, including those related to the bank holding company's capital adequacy and financial condition.

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

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

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

(9) *Capital plan cycle* means the period beginning on January 1 of a calendar year and ending on December 31 of that year.

(10) *Capital policy* means a bank holding company's written principles

and guidelines used for capital planning, capital issuance, capital usage and distributions, including internal capital goals; the quantitative or qualitative guidelines for capital distributions; the strategies for addressing potential capital shortfalls; and the internal governance procedures around capital policy principles and guidelines.

(11) *Common equity tier 1 capital* has the same meaning as under 12 CFR part 217.

(12) *Effective capital distribution limitations* means any limitations on capital distributions established by the Board by order or regulation, including pursuant to 12 CFR 217.11, 252.63, 252.165, and 263.202, provided that, for any limitations based on risk-weighted assets, such limitations must be calculated using the standardized approach, as set forth in 12 CFR part 217, subpart D.¹

(13) *Final planned capital distributions* means the planned capital distributions included in a capital plan that include the adjustments made pursuant to paragraph (h) of this section, if any.

(14) *Global systemically important BHC* means a bank holding company identified as a global systemically important BHC under 12 CFR 217.402.

(15) *GSIB surcharge* has the same meaning as under 12 CFR 217.403.

(16) *Large and noncomplex bank holding company* means any bank holding company subject to this section that:

(i) Has, as of December 31 of the calendar year prior to the capital plan cycle:

(A) Average total consolidated assets of less than \$250 billion;

(B) Average total nonbank assets of less than \$75 billion; and

(ii) Is not a bank holding company that is identified as a global systemically important BHC pursuant to § 217.402.

(17) *Net distributions* means, for each category of regulatory capital, the dollar amount of the bank holding company's capital distributions, net of the dollar amount of its capital issuances.

(18) *Net final planned capital distributions* means the dollar amount of net distributions relating to the bank holding company's final planned capital distributions.

(19) *Nonbank financial company supervised by the Board* means a company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Wall Street Reform and Consumer

¹ Effective capital distribution limitations should not include planned discretionary bonus payments.

Protection Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

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

(21) *Regulatory capital ratio* means a capital ratio for which the Board has established minimum requirements for the bank holding company by regulation or order, including, as applicable, the bank holding company's regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12; except that the bank holding company shall not use the advanced approaches to calculate its regulatory capital ratios.

(22) *Stress buffer requirement* means either the stress capital buffer requirement or the stress leverage buffer requirement.

(23) *Stress capital buffer requirement* means the amount calculated under paragraph (f)(2) of this section.

(24) *Stress leverage buffer requirement* means the amount calculated under paragraph (f)(3) of this section.

(25) *Tier 1 capital* has the same meaning as under 12 CFR part 217.

(26) *Tier 2 capital* has the same meaning as under 12 CFR part 217.

(27) *U.S. intermediate holding company* means the top-tier U.S. company that is required to be established pursuant to 12 CFR 252.153.

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

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

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

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

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

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

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

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

(A) Estimates of projected revenues, losses, reserves, and pro forma capital levels, including regulatory capital ratios, and any additional capital measures deemed relevant by the bank holding company, over the planning horizon under a range of scenarios, including any scenarios provided by the Federal Reserve, the BHC baseline scenario, and at least one BHC stress scenario;

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

(C) A description of all planned capital actions over the planning horizon that are consistent with effective capital distribution limitations and as may be adjusted pursuant to paragraph (h) of this section. In determining whether a bank holding company's planned capital distributions are consistent with effective capital distribution limitations, a bank holding company must assume:

(1) That any countercyclical capital buffer amount currently applicable to the bank holding company remains at the same level, except that the bank holding company must reflect any increases or decreases in the countercyclical capital buffer amount that have been announced by the Board at the times indicated by the Board's announcement for when such increases or decreases take effect; and

(2) That any GSIB surcharge currently applicable to the bank holding company when the capital plan is submitted remains at the same level, except that the bank holding company must reflect any increase in its GSIB surcharge pursuant to 12 CFR 217.403(d)(1), beginning in the fifth quarter of the planning horizon.

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

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

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

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

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

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

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

(ii) The bank holding company's structure;

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

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

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

(vi) The loss, revenue, and expense estimation models used by the bank holding company for stress scenario analysis, including supporting documentation regarding each model's development and validation; and

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

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

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

submitted the capital plan to the Board and the appropriate Reserve Bank under this section; or

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

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

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

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

(4) For a bank holding company subject to paragraph (i) of this section, the capital plan or the condition of the bank holding company raise any of the issues described in paragraph (i)(2) of this section.

(ii) A bank holding company may resubmit its capital plan to the Federal Reserve if the Board or the appropriate Reserve Bank objects to the capital plan.

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

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

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

(f) *Calculation methodologies and supervisory practices*—(1) *General.* The Board will determine the stress buffer

requirements that apply under 12 CFR 217.11 pursuant to this paragraph (f).

(2) *Stress capital buffer requirement calculation.* A bank holding company's stress capital buffer requirement is equal to the greater of:

(i)(A) The ratio of a bank holding company's common equity tier 1 risk-based capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, as of the final quarter of the previous capital plan cycle, unless otherwise determined by the Board; minus

(B) The lowest projected ratio of the bank holding company's common equity tier 1 capital to risk-weighted assets in any quarter of the planning horizon under the supervisory stress test described in paragraph (f)(4) of this section; plus

(C) The sum of the ratios of the bank holding company's planned common stock dividends (expressed as a dollar amount) to projected risk-weighted assets for each of the fourth through seventh quarters of the planning horizon; or

(ii) 2.5 percent.

(3) *Stress leverage buffer requirement calculation.* A bank holding company's stress leverage buffer requirement is equal to:

(i) The ratio of a bank holding company's tier 1 capital to average total consolidated assets, as calculated under 12 CFR part 217, subpart D, as of the final quarter of the previous capital plan cycle, unless otherwise determined by the Board; minus

(ii) The lowest projected leverage ratio for the bank holding company in any quarter during the planning horizon under the supervisory stress test described in paragraph (f)(4) of this section; plus

(iii) The sum of the ratios of the bank holding company's planned common stock dividends (expressed as a dollar amount) to the difference between projected total consolidated assets and amounts projected to be deducted from tier 1 capital under 12 CFR 217.22(a), (c), and (d) for each of the fourth through seventh quarters of the planning horizon.

(4) *Supervisory stress test.* The supervisory stress test is the stress test conducted by the Board pursuant to 12 CFR part 252, subpart E, under the severely adverse scenario using the assumptions regarding a bank holding company's capital actions over the planning horizon that are set forth in that section. For a capital plan resubmitted pursuant to paragraph (e)(4) of this section, the Board may conduct the supervisory stress test using an

updated version of the severely adverse scenario.

(g) *Review of capital plans by the Federal Reserve.* The Board, or the appropriate Reserve Bank with concurrence of the Board, will consider the following factors in reviewing a bank holding company's capital plan:

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

(2) The reasonableness of the bank holding company's capital plan, the assumptions and analysis underlying the capital plan, and the robustness of its capital adequacy process;

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

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

(5) The results of any stress tests conducted by the bank holding company or the Federal Reserve; and

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

(h) *Federal Reserve notice of stress buffer requirements; final planned capital distributions*—(1) *Timing of notice.* The Board will provide a bank holding company with notice of its stress buffer requirements by June 30 of the calendar year in which the capital plan was submitted pursuant to paragraph (e)(1)(ii) of this section, unless otherwise determined by the Board. The notice will include an explanation of the results of the supervisory stress test described in paragraph (f)(4) of this section.

(2) *Response to notice; request for reconsideration of stress capital buffer requirement or stress leverage buffer requirement.* A bank holding company may request reconsideration of the stress buffer requirements provided under paragraph (h)(1) of this section. To request reconsideration of its stress buffer requirements, a bank holding company must submit to the Board a written request pursuant to paragraph (j) of this section.

(3) *Response to notice; adjustments to planned capital distributions.* Within two business days of receipt of notice of its stress buffer requirements under

paragraph (h)(1) or (j)(5) of this section, as applicable, a bank holding company must:

(i) Determine whether the capital distributions for the fourth through seventh quarters of the planning horizon under the BHC baseline scenario included in the capital plan submitted pursuant to paragraph (e)(1)(ii) of this section would be consistent with effective capital distribution limitations, assuming the stress buffer requirements provided by the Board under paragraph (h)(1) or (j)(5) of this section, as applicable; and

(ii) If the capital distributions for the fourth through seventh quarters of the planning horizon under the BHC baseline scenario included in the capital plan submitted pursuant to paragraph (e)(1)(ii) of this section would not be consistent with effective capital distribution limitations assuming the stress buffer requirements, the bank holding company must determine how it would reduce its planned capital distributions such that those planned capital distributions would be consistent with effective capital distribution limitations assuming the stress buffer requirements, and must notify the Board of these reductions; or

(iii) If the capital distributions for the fourth through seventh quarters of the planning horizon under the BHC baseline scenario included in the capital plan submitted pursuant to paragraph (e)(1)(ii) of this section would be consistent with effective capital distribution limitations assuming the stress buffer requirements, the bank holding company may determine to adjust its planned capital distributions, provided that the adjusted planned capital distributions do not exceed the amount included in the capital plan submitted pursuant to paragraph (e)(1)(ii) of this section, and, if any adjustments are made, must notify the Board of these adjustments.

(4) *Response to notice; final planned capital distributions.* (i) If a bank holding company does not request reconsideration under paragraph (j) of this section, the Board will consider the planned capital distributions, including any adjustments made pursuant to paragraph (h)(3) of this section, to be the bank holding company's final planned capital distributions on the expiration of the time for requesting reconsideration under paragraph (j) of this section.

(ii) If a bank holding company requests reconsideration under paragraph (j) of this section, the bank holding company must provide the Board with its final planned capital distributions, including any adjustments made pursuant to paragraph (h)(3) of

this section, within 2 business days of receipt of notice of the Board's response under paragraph (j)(5) of this section.

(5) *Final stress capital buffer requirement and stress leverage buffer requirement; effective date.* (i) The Board will provide a bank holding company with its stress buffer requirements and confirmation of the bank holding company's final planned capital distributions by August 31 of the calendar year that a capital plan was submitted, unless otherwise determined by the Board. No stress buffer requirements shall be considered final so as to be agency action subject to judicial review under 5 U.S.C. 704 during the pendency of a request for reconsideration, pursuant to paragraph (j) of this section, or before the time for requesting reconsideration has expired.

(ii) A bank holding company's final planned capital distributions and stress buffer requirements shall:

(A) Unless otherwise determined by the Board, be effective on October 1 of the calendar year in which a capital plan was submitted pursuant to paragraph (e)(1)(ii) of this section; and

(B) Remain in effect until superseded, unless otherwise determined by the Board.

(6) *Publication.* With respect to any bank holding company subject to this section, the Board may disclose publicly any or all of the following items:

(i) The stress buffer requirements provided to a bank holding company under paragraph (h)(1) of this section that includes the adjustments made under paragraph (h)(3) also of this section, if any;

(ii) A summary of the results of the supervisory stress test described in paragraph (f)(4) of this section; and

(iii) A bank holding company's request for reconsideration under paragraph (j) of this section, and the Board's response to any such request for reconsideration or a summary thereof.

(i) *Federal Reserve action on a capital plan for bank holding companies that are not large and noncomplex bank holding companies—(1) Timing of action.* The Board or the appropriate Reserve Bank with concurrence of the Board, will object, in whole or in part, to the capital plan of a bank holding company that is not a large and noncomplex bank holding company or provide the bank holding company with a notice of non-objection to its capital plan:

(i) Unless otherwise determined by the Board, by June 30 of the calendar year in which a capital plan was submitted pursuant to paragraph (e)(1)(ii) of this section; and

(ii) For a capital plan resubmitted pursuant to paragraph (e)(4) of this section, within 75 calendar days after the date on which a capital plan is resubmitted, unless the Board provides notice to the bank holding company that it is extending the time period.

(2) *Basis for objection to a capital plan.* The Board may object to a capital plan submitted by a bank holding company that is not a large and noncomplex bank holding company if the Board determines that:

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

(ii) The assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies and practices that support its capital planning process, are not reasonable or appropriate; or

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

(3) *Notification of decision.* The Board or the appropriate Reserve Bank will notify the bank holding company in writing of the reasons for a decision to object to a capital plan.

(4) *General distribution limitation.* If the Board or the appropriate Reserve Bank objects to a capital plan and until such time as the Board or the appropriate Reserve Bank with concurrence of the Board, issues a non-objection to the bank holding company's capital plan, the bank holding company may not make any capital distribution, other than capital distributions arising from the issuance of a capital instrument eligible for inclusion in the numerator of a regulatory capital ratio or capital distributions with respect to which the Board or the appropriate Reserve Bank has indicated in writing its non-objection.

(5) *Publication of summary results.* The Board may disclose publicly its decision to object or not object to a bank holding company's capital plan under

this section, along with a summary of the results of the supervisory stress test described in paragraph (f)(4) of this section for that company. Any disclosure under this paragraph (i)(5) will occur by June 30 of the calendar year in which a capital plan was submitted pursuant to paragraph (e)(1)(ii) of this section, unless otherwise determined by the Board.

(j) *Administrative Remedies; request for reconsideration.* The following requirements and procedures apply to any request under this paragraph (j):

(1) *General.* To request reconsideration of an objection to a capital plan, provided under paragraph (i) of this section, or of a stress buffer requirement, provided under paragraph (h) of this section, a bank holding company must submit a written request for reconsideration.

(2) *Timing of request.* (i) A request for reconsideration of an objection to a capital plan, provided under paragraph (i) of this section, must be received within 15 calendar days of receipt of a notice of objection to a capital plan.

(ii) A request for reconsideration of a stress buffer requirement, provided under paragraph (h) of this section, must be received within 15 calendar days of receipt of a notice of bank holding company's stress buffer requirement.

(3) *Contents of request.* (i) A request for reconsideration must include a detailed explanation of why reconsideration should be granted. With respect to any information that was not previously provided to the Federal Reserve in the bank holding company's capital plan, the request should include an explanation of why the information should be considered.

(ii) A request for reconsideration may include a request for an informal hearing on the bank holding company's request for reconsideration.

(4) *Hearing.* (i) The Board may, in its sole discretion, order an informal hearing if the Board finds that a hearing is appropriate or necessary to resolve disputes regarding material issues of fact.

(ii) An informal hearing shall be held within 30 calendar days of a request, if granted, provided that the Board may extend this period upon notice to the requesting party.

(5) *Response to request.* (i) Within 30 calendar days of receipt of the bank holding company's request for reconsideration of an objection to a capital plan submitted under paragraph (j) of this section or within 30 days of the conclusion of an informal hearing conducted under paragraph (j)(4) of this section, the Board will notify the

company of its decision to affirm or withdraw the objection to the bank holding company's capital plan, or a specific capital distribution, provided that the Board may extend this period upon notice to the bank holding company.

(ii) Within 30 calendar days of receipt of the bank holding company's request for reconsideration of its stress buffer requirement submitted under paragraph (j) of this section or within 30 days of the conclusion of an informal hearing conducted under paragraph (j)(4) of this section, the Board will notify the company of its decision to affirm or modify, as applicable, the bank holding company's stress buffer requirement, provided that the Board may extend this period upon notice to the bank holding company.

(6) *Distributions during the pendency of a request for reconsideration.* During the pendency of the Board's final decision under paragraph (j)(5) of this section, the bank holding company may make the capital distributions to which the Board or the appropriate Reserve Bank indicated its non-objection, except that, if the Board or the appropriate Reserve Bank has not yet indicated its non-objection for a quarter during which a decision under paragraph (j)(5) of this section is pending, the bank holding company is authorized to make capital distributions that do not to exceed the four-quarter average of capital distributions to which the Board or the appropriate Reserve Bank indicated its non-objection for the previous capital plan cycle, unless otherwise determined by the Board.

(k) *Approval requirements for certain capital actions—(1) Circumstances requiring approval.* A bank holding company may not make a capital distribution (excluding any capital distribution arising from the issuance of a capital instrument eligible for inclusion in the numerator of a regulatory capital ratio) under the following circumstances, unless it receives prior approval from the Board or appropriate Reserve Bank pursuant to paragraph (k)(5) of this section:

(i) After giving effect to the capital distribution, the bank holding company would not meet a minimum regulatory capital ratio;

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

(iii) Except as provided in paragraph (k)(2) of this section, the dollar amount of the capital distribution will exceed the dollar amount of the bank holding company's final planned capital distributions, as measured on an aggregate basis beginning in the fourth quarter of the planning horizon through the quarter at issue; or

(iv) The capital distribution would occur after the occurrence of an event requiring resubmission under paragraph (e)(4)(i)(A) or (B) of this section and before the Federal Reserve has responded or acted under paragraphs (h) and (i) of this section, as applicable.

(2) *Exception for well capitalized bank holding companies.* (i) A bank holding company may make a capital distribution for which the dollar amount exceeds the dollar amount of the bank holding company's final planned capital distributions if the following conditions are satisfied:

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

(B) The bank holding company's performance and capital levels are, and after the capital distribution would remain, consistent with its projections under the BHC baseline scenario;

(C) The annual aggregate dollar amount of all capital distributions in the period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year would not exceed the total dollar amounts of the bank holding company's final planned capital distributions by more than 0.25 percent multiplied by the bank holding company's tier 1 capital, as reported to the Federal Reserve on the bank holding company's most recent first-quarter FR Y-9C;

(D) Between July 1 of a calendar year and March 15 of the following calendar year, the bank holding company provides the appropriate Reserve Bank with notice 15 calendar days prior to a capital distribution that includes the elements described in paragraph (k)(4) of this section; and

(E) The Board or the appropriate Reserve Bank with concurrence of the Board, does not object to the transaction proposed in the notice. In determining whether to object to the proposed transaction, the Board or the appropriate Reserve Bank shall apply the criteria described in paragraph (k)(5)(ii) of this section.

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

(3) *Net distribution limitation*—(i) *General.* Notwithstanding a bank holding company's final planned capital distributions, the bank holding company must reduce its capital distributions in accordance with paragraph (k)(3)(ii) of this section if the bank holding company raises a smaller dollar amount of capital of a given category of regulatory capital instruments than it had included in its capital plan, as measured on an aggregate basis beginning in the fourth quarter of the planning horizon through the end of the current quarter.

(ii) *Reduction of distributions*—(A) *Common equity tier 1 capital.* If the bank holding company raises a smaller dollar amount of common equity tier 1 capital, the bank holding company must reduce its final planned capital distributions relating to common equity tier 1 capital such that net distributions relating to common equity tier 1 capital are no greater than net final planned capital distributions of common equity tier 1 capital, as measured on an aggregate basis beginning in the fourth quarter of the planning horizon through the end of the current quarter.

(B) *Additional tier 1 capital.* If the bank holding company raises a smaller dollar amount of additional tier 1 capital, the bank holding company must reduce its final planned capital distributions relating to additional tier 1 capital (other than scheduled payments on additional tier 1 capital instruments) such that the dollar amount of the bank holding company's net distributions relating to additional tier 1 capital is no greater than the dollar amount of its net final planned capital distributions relating to additional tier 1 capital, as measured on an aggregate basis beginning in the fourth quarter of the planning horizon through the end of the current quarter.

(C) *Tier 2 capital.* If the bank holding company raises a smaller dollar amount of tier 2 capital, the bank holding company must reduce its final planned capital distributions relating to tier 2 capital (other than scheduled payments on tier 2 capital instruments) such that the dollar amount of the bank holding company's net distributions relating to tier 2 capital is no greater than the dollar amount of its net final planned capital distributions relating to tier 2 capital, as measured on an aggregate basis beginning in the fourth quarter of the planning horizon through the end of the current quarter.

(iii) *Exceptions.* Paragraphs (k)(3)(i) and (ii) of this section shall not apply:

(A) To the extent that the Board or appropriate Reserve Bank indicates in writing its approval pursuant to

paragraph (k)(5) of this section, following a request for prior approval from the bank holding company that includes all of the information required to be submitted under paragraph (k)(4) of this section;

(B) To capital distributions arising from the issuance of a capital instrument eligible for inclusion in the numerator of a regulatory capital ratio that the bank holding company had not included in its capital plan;

(C) To the extent that the bank holding company raised a smaller dollar amount of capital in the category of regulatory capital instruments described in paragraph (k)(3)(i) of this section due to employee-directed capital issuances related to an employee stock ownership plan;

(D) To the extent that the bank holding company raised a smaller dollar amount of capital in the category of regulatory capital instruments described in paragraph (k)(3)(i) of this section due to a planned merger or acquisition that is no longer expected to be consummated or for which the consideration paid is lower than the projected price in the capital plan; or

(E) To the extent that the dollar amount by which the bank holding company's net distributions exceed the dollar amount of its net final planned capital distributions in the category of regulatory capital instruments described in paragraph (k)(3)(i) of this section, as measured on an aggregate basis beginning in the fourth quarter of the planning horizon through the end of the current quarter, is less than 0.25 percent of the bank holding company's tier 1 capital, as reported to the Federal Reserve on the bank holding company's most recent first-quarter FR Y-9C; between July 1 of a calendar year and March 15 of the following calendar year, the bank holding company provides the appropriate Reserve Bank with notice 15 calendar days prior to any capital distribution in that category of regulatory capital instruments that includes the elements described in paragraph (k)(4) of this section; and the Board or the appropriate Reserve Bank with concurrence of the Board, does not object to the transaction proposed in the notice. In determining whether to object to the proposed transaction, the Board or the appropriate Reserve Bank shall apply the criteria described in paragraph (k)(5)(ii) of this section.

(iv) *Exclusion from exceptions.* The exceptions in paragraph (k)(3)(iii) of this section shall not apply if the Board or the appropriate Reserve Bank notifies the bank holding company in writing that it is ineligible for this exception.

(4) *Contents of request.* (i) A request for a capital distribution under this section shall be filed between July 1 of a calendar year and March 1 of the following calendar year with the appropriate Reserve Bank and the Board and shall contain the following information:

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

(B) The purpose of the transaction;

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

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

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

(5) *Approval of certain capital distributions.* (i) The Board or the appropriate Reserve Bank with concurrence of the Board, will act on a request under this paragraph (k)(5) within 30 calendar days after the receipt of all the information required under paragraph (k)(4) of this section.

(ii) In acting on a request under this paragraph (k)(5), the Board or appropriate Reserve Bank will apply the considerations and principles in paragraphs (g) and (i) of this section, as appropriate. In addition, the Board or the appropriate Reserve Bank may disapprove the transaction if the bank holding company does not provide all of the information required to be submitted under paragraph (k)(4) of this section.

(6) *Disapproval and hearing.* (i) The Board or the appropriate Reserve Bank will notify the bank holding company in writing of the reasons for a decision to disapprove any proposed capital distribution. Within 15 calendar days after receipt of a disapproval by the Board, the bank holding company may submit a written request for a hearing.

(A) The Board may, in its sole discretion, order an informal hearing if the Board finds that a hearing is appropriate or necessary to resolve disputes regarding material issues of fact.

(B) An informal hearing shall be held within 30 calendar days of a request, if granted, provided that the Board may extend this period upon notice to the requesting party.

(C) Written notice of the final decision of the Board shall be given to the bank holding company within 60 calendar days of the conclusion of any informal hearing ordered by the Board, provided that the Board may extend this period upon notice to the requesting party.

(D) While the Board's final decision is pending and until such time as the Board or the appropriate Reserve Bank with concurrence of the Board, approves the capital distribution at issue, the bank holding company may not make such capital distribution.

(ii) [Reserved]

(I) *Transition for certain planned capital actions.* For the period July 1 to September 30, 2019, a bank holding company is authorized to make capital distributions that do not exceed the four-quarter average of capital distributions to which the Board or the appropriate Reserve Bank indicated its non-objection for the previous capital plan cycle, unless otherwise determined by the Board.

PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)

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

Authority: 12 U.S.C. 321–338a, 481–486, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1844(c), 3101 *et seq.*, 3101 note, 3904, 3906–3909, 4808, 5361, 5362, 5365, 5366, 5367, 5368, 5371.

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

■ 7. Section 252.44 is amended by adding paragraph (c) to read as follows:

§ 252.44 Annual analysis conducted by the Board.

* * * * *

(c) *Assumptions.* In conducting a stress test under this section, the Board will make the following assumptions regarding a covered company's capital actions over the planning horizon:

(1) The covered company will not pay any dividends on any instruments that qualify as common equity tier 1 capital;

(2) The covered company will make payments on instruments that qualify as additional tier 1 capital or tier 2 capital equal to the stated dividend, interest, or principal due on such instrument;

(3) The covered company will not make a redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio; and

(4) The covered company will not make any issuances of common stock or preferred stock, except for issuances in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the covered company's pro forma balance sheet estimates.

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

■ 8. Section 252.54 is amended by revising paragraph (b)(2)(i) introductory text to read as follows:

§ 252.54 Annual stress test.

* * * * *

(b) * * *

(2) * * *

(i) The Board may require a covered company with significant trading activity (a covered company that has aggregate trading assets and liabilities of \$50 billion or more, or aggregate trading assets and liabilities equal to 10 percent or more of total consolidated assets, and is not a large and noncomplex bank holding company, as defined in 12 CFR 225.8) to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section:

* * * * *

■ 9. Section 252.56 is amended by revising paragraph (b) to read as follows:

§ 252.56 Methodologies and practices.

* * * * *

(b) *Assumptions regarding capital actions.* In conducting a stress test under §§ 252.54 and 252.55, a covered company is required to make the following assumptions regarding its capital actions over the planning horizon:

(1) The covered company will not pay any dividends on any instruments that qualify as common equity tier 1 capital;

(2) The covered company will make payments on instruments that qualify as additional tier 1 capital or tier 2 capital equal to the stated dividend, interest, or principal due on such instrument;

(3) The covered company will not make a redemption or repurchase of any

capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio; and

(4) The covered company will not make any issuances of common stock or preferred stock, except for issuances in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the covered company's pro forma balance sheet estimates.

* * * * *

■ 10. Amend appendix B to part 252, as proposed to be added at 82 FR 59528, by revising section 2.7 and adding section 3.4 to read as follows:

Appendix B to Part 252—Stress Testing Policy Statement

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2.7. Credit Supply Maintenance

The supervisory stress test incorporates an assumption that restricts the contraction of aggregate credit supply during the stress period. The aim of supervisory stress testing is to assess whether firms are sufficiently capitalized to absorb losses during times of economic stress, while meeting obligations and continuing to lend to households and businesses. While an individual firm may assume that it reacts to rising losses by sharply restricting its lending, (e.g., by exiting a particular business line), the banking industry as a whole cannot do so without creating a "credit crunch" and substantially increasing the severity and duration of an economic downturn. Ensuring that covered companies cannot assume they will "shrink to health," serves the Federal Reserve's goal of helping to ensure that major financial firms remain sufficiently capitalized to accommodate credit demand in a severe downturn.

Accordingly, in projecting a firm's balance sheet, the Federal Reserve will assume that the firm takes actions to maintain a constant level of assets, including loans, trading assets, and securities over the planning horizon. In order to implement this policy, the Federal Reserve must make assumptions about new loan balances. To predict losses on new originations over the planning horizon, newly originated loans are assumed to have the same risk characteristics as the existing portfolio, where applicable, with the exception of loan age and delinquency status. These newly originated loans would be part of a covered company's normal business, even in a stressed economic environment. By precluding the need to make assumptions about how underwriting standards might tighten or loosen during times of economic stress, the Federal Reserve adheres to Principle 1.3 and promotes consistency across covered companies. Similar to the Board's current methodology, balance sheet projections would reflect the impact of a planned merger or acquisition, or completed or contractually agreed-on divestiture.

In projecting the denominator for the calculation of the leverage ratio, the Federal Reserve will account for the effect of changes associated with the calculation of regulatory

capital or changes to the Board's regulations. As with the Board's current methodology, leverage ratio denominator projections would reflect the impact of a planned merger or acquisition, or completed or contractually agreed-on divestiture.

* * * * *

3.4. Simple Approach for Projecting Risk-Weighted Assets

In projecting risk-weighted assets, the Federal Reserve will generally assume that a covered company's risk-weighted assets

remain unchanged over the planning horizon. This assumption allows the Federal Reserve to independently project firms' risk-weighted assets in line with the goal of simplicity (Principle 1.4). In addition, this approach is forward-looking (Principle 1.2), as this assumption removes reliance on historical data and past outcomes from the projection of risk-weighted assets.

In projecting a firm's risk-weighted assets, the Federal Reserve will account for the effect of changes associated with the calculation of regulatory capital or changes to

the Board's regulations in the calculation of risk-weighted assets. As with the Board's current methodology, risk-weighted asset projections would reflect the impact of a planned merger or acquisition, or completed or contractually agreed-on divestiture.

By order of the Board of Governors of the Federal Reserve System, April 10, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018-08006 Filed 4-24-18; 8:45 am]

BILLING CODE 6210-01-P