

PENALTIES APPLICABLE TO FEDERAL SAVINGS ASSOCIATIONS—Continued

U.S. Code Citation	CMP Description	Maximum Penalty Amount (in Dollars) ¹
12 U.S.C. 1818(i)(2) ³	Tier 3	² 2,013,399
	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty	
	Tier 1	10,067
12 U.S.C. 1820(k)(6)(A)(ii)	Tier 2	50,334
	Tier 3	² 2,013,399
	Violation of Post-Employment Restrictions:	
12 U.S.C. 1832(c)	Per violation	331,174
	Violation of Withdrawals by Negotiable or Transferable Instruments for Transfers to Third Parties:	
12 U.S.C. 1884	Per violation	2,658
	Violation of the Bank Protection Act	292
12 U.S.C. 1972(2)(F)	Violation of Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty:	
	Tier 1	10,067
	Tier 2	50,334
15 U.S.C. 78u-2(b)	Tier 3	² 2,013,399
	Violations of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act:	
	1st Tier (natural person)—Per violation	9,472
	1st Tier (other person)—Per violation	94,713
	2nd Tier (natural person)—Per violation	94,713
	2nd Tier (other person)—Per violation	473,566
	3rd Tier (natural person)—Per violation	189,427
3rd Tier (other person)—Per violation	947,130	
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements:	
	First violation	11,563
	Subsequent violations	23,125
42 U.S.C. 4012a(f)(5)	Flood Insurance:	
	Per violation	2,187

¹ The maximum penalty amount is per day, unless otherwise indicated.

² The maximum penalty amount for a federal savings association is the lesser of this amount or 1 percent of total assets.

³ These amounts also apply to statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1681s, 1691c, and 1692l.

Dated: December 18, 2018.

Bao Nguyen,

Acting Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2018-27784 Filed 12-26-18; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 25 and 195

[Docket ID OCC-2018-0033]

RIN 1557-AE54

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Regulation BB; Docket No. R-1642]

RIN 7100-AF32

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064-AE97

Community Reinvestment Act Regulations

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

ACTION: Joint final rule; technical amendment.

SUMMARY: The OCC, the Board, and the FDIC (collectively, the Agencies) are amending their Community Reinvestment Act (CRA) regulations to adjust the asset-size thresholds used to define “small bank” or “small savings association” and “intermediate small bank” or “intermediate small savings association.” As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

DATES: *Effective Date:* January 1, 2019.

FOR FURTHER INFORMATION CONTACT:

OCC: Emily Boyes, Senior Attorney or Daniel Sufanski, Attorney, Chief Counsel’s Office, (202) 649-5490; for persons who are deaf or hearing impaired, TTY, (202) 649-5597; or Vonda Eanes, Director for CRA and Fair Lending Policy, Compliance Risk Policy Division, (202) 649-5470, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Amal S. Patel, Counsel, (202) 912-7879, or Cathy Gates, Senior Project Manager, (202) 452-2099, Division of Consumer and Community Affairs; or Clinton N. Chen, Senior Attorney, (202) 452-3952, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

FDIC: Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898-6859; or Richard M. Schwartz, Counsel, Legal Division, (202) 898-7424, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background and Description of the Joint Final Rule

The Agencies' CRA regulations establish CRA performance standards for small and intermediate small banks and savings associations. The CRA regulations define small and intermediate small banks and savings associations by reference to asset-size criteria expressed in dollar amounts, and they further require the Agencies to publish annual adjustments to these dollar figures based on the year-to-year change in the average of the CPI-W, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million. 12 CFR 25.12(u)(2), 195.12(u)(2), 228.12(u)(2), and 345.12(u)(2). This adjustment formula was first adopted for CRA purposes by the OCC, the Board, and the FDIC on August 2, 2005, effective September 1, 2005. 70 FR 44256 (Aug. 2, 2005). At that time, the Agencies noted that the CPI-W is also used in connection with other federal laws, such as the Home Mortgage Disclosure Act. *See* 12 U.S.C. 2808; 12 CFR 1003.2. On March 22, 2007, and effective July 1, 2007, the former Office of Thrift Supervision (OTS), the agency then responsible for regulating savings associations, adopted an annual adjustment formula consistent with that of the other federal banking agencies in its CRA rule previously set forth at 12 CFR part 563e. 72 FR 13429 (Mar. 22, 2007).

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),¹ effective July 21, 2011, CRA rulemaking authority for federal and state savings associations was transferred from the OTS to the OCC, and the OCC subsequently republished, at 12 CFR part 195, the CRA regulations applicable to those

institutions.² In addition, the Dodd-Frank Act transferred responsibility for supervision of savings and loan holding companies and their non-depository subsidiaries from the OTS to the Board, and the Board subsequently amended its CRA regulation to reflect this transfer of supervisory authority.³

The threshold for small banks and small savings associations was revised most recently in December 2017 and became effective January 1, 2018. 82 FR 61143 (Dec. 27, 2017). The current CRA regulations provide that banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.252 billion are small banks or small savings associations. Small banks and small savings associations with assets of at least \$313 million as of December 31 of both of the prior two calendar years and less than \$1.252 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations. 12 CFR 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1). This joint final rule revises these thresholds.

During the 12-month period ending November 2018, the CPI-W increased by 2.59 percent. As a result, the Agencies are revising 12 CFR 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1) to make this annual adjustment. Beginning January 1, 2019, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.284 billion are small banks or small savings associations. Small banks and small savings associations with assets of at least \$321 million as of December 31 of both of the prior two calendar years and less than \$1.284 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations. The Agencies also publish current and historical asset-size thresholds on the website of the Federal Financial Institutions Examination Council at <http://www.ffiec.gov/cra/>.

Administrative Procedure Act and Effective Date

Under 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA), an agency may, for good cause, find (and incorporate the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable,

² *See* OCC interim final rule, 76 FR 48950 (Aug. 9, 2011).

³ *See* Board interim final rule, 76 FR 56508 (Sept. 13, 2011).

unnecessary, or contrary to the public interest.

The amendments to the regulations to adjust the asset-size thresholds for small and intermediate small banks and savings associations result from the application of a formula established by a provision in the respective CRA regulations that the Agencies previously published for comment. *See* 70 FR 12148 (Mar. 11, 2005), 70 FR 44256 (Aug. 2, 2005), 71 FR 67826 (Nov. 24, 2006), and 72 FR 13429 (Mar. 22, 2007). As a result, §§ 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1) of the Agencies' respective CRA regulations are amended by adjusting the asset-size thresholds as provided for in §§ 25.12(u)(2), 195.12(u)(2), 228.12(u)(2), and 345.12(u)(2).

Accordingly, the Agencies' rules provide no discretion as to the computation or timing of the revisions to the asset-size criteria. For this reason, the Agencies have determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary.

The effective date of this joint final rule is January 1, 2019. Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. Because this rule adjusts asset-size thresholds consistent with the procedural requirements of the CRA rules, the Agencies conclude that it is not substantive within the meaning of the APA's delayed effective date provision. Moreover, the Agencies find that there is good cause for dispensing with the delayed effective date requirement, even if it applied, because their current rules already provide notice that the small and intermediate small asset-size thresholds will be adjusted as of December 31 based on 12-month data as of the end of November each year.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking when a general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted previously, the Agencies have determined that it is unnecessary to publish a general notice of proposed rulemaking for this joint final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521) states that no

¹ Public Law 111-203, 124 Stat. 1376 (2010).

agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Agencies have determined that this final rule does not create any new, or revise any existing, collections of information pursuant to the Paperwork Reduction Act. Consequently, no information collection request will be submitted to the OMB for review.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), 2 U.S.C. 1532, requires the OCC to prepare a budgetary impact statement before promulgating any final rule for which a general notice of proposed rulemaking was published. As discussed above, the OCC has determined that the publication of a general notice of proposed rulemaking is unnecessary. Accordingly, this joint final rule is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 195

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 228

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Chapter I

For the reasons discussed in the SUPPLEMENTARY INFORMATION section, 12 CFR parts 25 and 195 are amended as follows:

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2908, and 3101 through 3111.

■ 2. Section 25.12 is amended by revising paragraph (u)(1) to read as follows:

§ 25.12 Definitions.

* * * * *

(u) * * *

(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.284 billion. *Intermediate small bank* means a small bank with assets of at least \$321 million as of December 31 of both of the prior two calendar years and less than \$1.284 billion as of December 31 of either of the prior two calendar years.

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PART 195—COMMUNITY REINVESTMENT

■ 3. The authority citation for part 195 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1814, 1816, 1828(c), 2901 through 2908, and 5412(b)(2)(B).

■ 4. Section 195.12 is amended by revising paragraph (u)(1) to read as follows:

§ 195.12 Definitions.

* * * * *

(u) * * *

(1) *Definition. Small savings association* means a savings association that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.284 billion. *Intermediate small savings association* means a small savings association with assets of at least \$321 million as of December 31 of both of the prior two calendar years and less than \$1.284 billion as of December 31 of either of the prior two calendar years.

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**Federal Reserve System
12 CFR Chapter II**

For the reasons set forth in the SUPPLEMENTARY INFORMATION section, the Board of Governors of the Federal Reserve System amends part 228 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

■ 5. The authority citation for part 228 continues to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

■ 6. Section 228.12 is amended by revising paragraph (u)(1) to read as follows:

§ 228.12 Definitions.

* * * * *

(u) * * *

(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.284 billion. *Intermediate small bank* means a small bank with assets of at least \$321 million as of December 31 of both of the prior two calendar years and less than \$1.284 billion as of December 31 of either of the prior two calendar years.

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**Federal Deposit Insurance Corporation
12 CFR Chapter III**

Authority and Issuance

For the reasons set forth in the SUPPLEMENTARY INFORMATION section, the Board of Directors of the Federal Deposit Insurance Corporation amends part 345 of chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 345—COMMUNITY REINVESTMENT

■ 7. The authority citation for part 345 continues to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2908, 3103–3104, and 3108(a).

■ 8. Section 345.12 is amended by revising paragraph (u)(1) to read as follows:

§ 345.12 Definitions.

* * * * *

(u) * * *

(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.284 billion. *Intermediate small bank* means a small bank with assets of at least \$321 million as of December 31 of both of the prior two calendar years and less than \$1.284 billion as of December 31 of either of the prior two calendar years.

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Dated: December 18, 2018.

Bao Nguyen,

Acting Senior Deputy Comptroller and Chief Counsel.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 17, 2018.

Ann E. Misback,

Secretary of the Board.

By order of the Board of Directors.

Dated at Washington, DC, this 13th day of December, 2018.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018-27791 Filed 12-26-18; 8:45 am]

BILLING CODE 4810-33-P; 6210-01-P; 6714-01-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 30

[Docket ID OCC-2018-0028]

RIN 1557-AE51

OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches; Technical Amendments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final guidelines.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its enforceable guidelines relating to recovery planning standards for insured national banks, insured federal savings associations, and insured federal branches (Guidelines) by increasing the average total consolidated assets threshold for applying the Guidelines from \$50 billion to \$250 billion. In addition, the OCC is changing the Guidelines to decrease from 18 months to 12 months the time within which a bank should comply with the Guidelines after the bank becomes subject to them. Finally, the OCC is making technical amendments to remove outdated compliance dates.

DATES: The final guidelines are effective on January 28, 2019.

FOR FURTHER INFORMATION CONTACT: Andra Shuster, Senior Counsel or Rima Kundnani, Attorney, Chief Counsel's Office, (202) 649-5490; or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

The 2008 financial crisis provided valuable lessons about the need for financial institutions to have strong risk governance frameworks, including plans for how to respond to and recover from the financial effects of severe stress. This was particularly true for larger, more complex banks given the potential they pose for systemic risk. In response to these lessons, on September 29, 2016, the OCC published the Guidelines establishing minimum standards for recovery planning by insured national banks, insured federal savings associations, and insured federal branches of foreign banks (banks) with average total consolidated assets¹ equal to or greater than \$50 billion (covered banks).² The Guidelines state that a recovery plan should identify (1) quantitative or qualitative indicators of the risk or existence of severe stress that reflect a covered bank's particular vulnerabilities and (2) a wide range of credible options that a covered bank could undertake in response to the stress to restore its financial strength and viability.

Under the Guidelines, a recovery plan should also address: (1) Procedures for escalating decision-making to senior management or the board of directors, (2) management reports, and (3) communication procedures. In addition, the Guidelines explain how a bank should calculate its average total consolidated assets and reserve the OCC's authority to apply the Guidelines to a bank below the \$50 billion threshold if the agency determines a bank is highly complex or otherwise presents a heightened risk. Finally, the Guidelines set out phased-in compliance dates based on bank size.

II. Description of the Proposal, Comments Received, and Final Guidelines

The OCC received three comments on the proposal. One comment came from an individual, one from a trade association (Trade Association Comment), and the other from four regional national banks (Banks Comment).

¹ Average total consolidated assets is defined in the Guidelines and means the average total consolidated assets of the bank or covered bank as reported on the bank's or covered bank's Consolidated Reports of Condition and Income for the four most recent consecutive quarters. See 12 CFR part 30, appendix E, paragraph I.E.1.

² 81 FR 66791 (Sep. 29, 2016). The Guidelines were issued pursuant to section 39 of the Federal Deposit Insurance Act, 12 U.S.C. 1831p-1, which authorizes the OCC to prescribe enforceable safety and soundness standards.

Asset Threshold. The OCC noted in the **SUPPLEMENTARY INFORMATION** section of the Guidelines that large, complex institutions should undertake recovery planning to be able to respond quickly to and recover from the financial effects of severe stress on the institution. Based on its experience to date in reviewing recovery plans, the OCC believes that it is appropriate to raise the threshold for the Guidelines to focus on those institutions that present greater risk to the banking system. These larger, more complex, or potentially more interconnected banks present the types of risks that could benefit most from having the types of governance and planning processes that identify and assist in responding to significant stress events.

In addition, at the time the Guidelines were published, the \$50 billion recovery planning threshold was consistent with the scope of Federal Deposit Insurance Corporation and Board of Governors of the Federal Reserve System regulations³ that require certain entities to prepare resolution plans under section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.⁴ On May 24, 2018, the Economic Growth, Regulatory Relief, and Consumer Protection Act (Act) was enacted to promote economic growth, provide tailored economic relief, and enhance consumer protections.⁵ Section 401 of the Act raises from \$50 billion to \$250 billion the section 165 resolution planning threshold.

Accordingly, the OCC proposed to increase from \$50 billion to \$250 billion the average total consolidated assets threshold at which the Guidelines apply to banks.⁶ This change would reduce the number of covered banks to which the Guidelines apply from 25 to 8, based on the most recent data available.

All three of the comments received addressed the threshold change. The individual commenter expressed concern that raising the Guidelines' asset threshold would provide too much leniency for banks in light of the 2008 financial crisis. The Trade Association Comment strongly supported the OCC's proposal to raise the threshold for the Guidelines from \$50 billion to \$250 billion in average total consolidated assets because it provides burden relief to the affected banks and permits the OCC to allocate its resources over a smaller number of banks. The Banks

³ See 12 CFR 381.2(f) and 243.2(f), respectively. See also 12 CFR 360.10.

⁴ Public Law 111-203, 124 Stat. 1376 (July 21, 2010).

⁵ Public Law 115-174, 132 Stat. 1296 (May 24, 2018).

⁶ 83 FR 47313 (Sep. 19, 2018).