

Proposed Rules

Federal Register

Vol. 83, No. 248

Friday, December 28, 2018

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AE84

Company-Run Stress Testing Requirements for FDIC-Supervised State Nonmember Banks and State Savings Associations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking with request for public comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is requesting comment on a proposed rule (proposed rule or NPR) that would revise the FDIC's requirements for stress testing by FDIC-supervised institutions, consistent with changes made by Section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). Specifically, the proposed rule would amend the FDIC's existing stress testing regulations to change the minimum threshold for applicability from \$10 billion to \$250 billion, revise the frequency of required stress tests by FDIC-supervised institutions, and reduce the number of required stress testing scenarios from three to two. The NPR also proposes to make certain conforming and technical changes, including changes that were previously proposed in an April 2018 notice of proposed rulemaking that was superseded, in part, by the enactment of EGRRCPA.

DATES: Comments on the notice of proposed rulemaking must be received by February 19, 2019.

ADDRESSES: Interested parties are encouraged to submit written comments. Commenters are encouraged to use the title "Company-Run Stress Testing Requirements for FDIC-supervised State Nonmember Banks and State Savings Associations" to facilitate the organization and distribution of comments among the Agencies. You may submit comments, identified by

RIN number, by any of the following methods:

- *Agency website:* <https://www.FDIC.gov/regulations/laws/federal/>. Follow instructions for submitting comments on the Agency website.

- *Email:* Comments@FDIC.gov. Include RIN 3064-AE84 on the subject line of the message.

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

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

- *Public Inspection:* All comments received must include the agency name and RIN 3064-AE84 for this rulemaking. All comments received will be posted without change to <https://www.fdic.gov/regulations/laws/federal/>, including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226 by telephone at 1 (877) 275-3342 or 1 (703) 562-2200.

FOR FURTHER INFORMATION CONTACT: Ryan Sheller, Section Chief, (202) 412-4861, RSheller@FDIC.gov, Large Bank Supervision, Division of Risk Management Supervision; Annmarie Boyd, Counsel, (202) 898-3714, aboyd@FDIC.gov; or Benjamin Klein, Counsel, (202) 898-7027, bklein@FDIC.gov; Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC, 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Prior to the enactment of EGRRCPA, section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ (Dodd-Frank Act) required a financial company, including an insured depository institution, with total consolidated assets of more than \$10 billion and regulated by a primary Federal regulatory agency to conduct annual stress tests and submit a report to the Board of Governors of the Federal Reserve System (Board) and to its primary federal regulatory agency.

Section 165(i)(2)(C) required each primary Federal regulator to issue consistent and comparable regulations to: (1) Implement the stress testing requirements, including establishing methodologies for conducting stress tests that provided for at least three different sets of conditions, including baseline, adverse, and severely adverse; (2) establish the form and content of the required reports, and (3) require companies to publish a summary of the stress test results.

In October 2012, the FDIC published in the **Federal Register** its rule implementing the Dodd-Frank Act stress testing requirement.² The FDIC regulation at 12 CFR part 325 implements the company-run stress testing requirements of section 165(i)(2) of the Dodd-Frank Act with respect to state nonmember banks and state savings associations with more than \$10 billion in assets (covered banks). Although 12 CFR part 325 applies to all covered banks that exceed \$10 billion in assets, the regulation differentiates between "\$10 billion to \$50 billion covered banks" and "over \$50 billion covered banks."

EGRRCPA, enacted on May 24, 2018,³ amended certain aspects of the company-run stress-testing requirements in section 165(i)(2) of the Dodd-Frank Act. Specifically, section 401 of EGRRCPA raises the minimum asset threshold for the company-run stress testing requirement from \$10 billion to \$250 billion; replaces the requirement for banks to conduct stress tests "annually" with the requirement to conduct stress tests "periodically;" and no longer requires the "adverse" stress testing scenario, thus reducing the number of required stress testing scenarios from three to two. The EGRRCPA amendments to the section 165(i)(2) stress testing requirements are effective eighteen months after enactment.

Prior to the enactment of EGRRCPA, on April 2, 2018, the FDIC issued a notice of proposed rulemaking that also proposed certain revisions to the FDIC

² 77 FR 62417 (October 15, 2012). The Board and the Office of the Comptroller of the Currency contemporaneously issued comparable regulations. See 77 FR 62380 (October 12, 2012) (Board); 77 FR 61238 (October 9, 2012) (OCC).

³ Public Law 115-174, 132 Stat. 1296-1368 (2018).

¹ 12 U.S.C. 5365(i).

stress testing regulations (April NPR).⁴ Certain changes proposed in the April NPR, particularly those establishing a stress testing transition process for “over \$50 billion covered banks” are no longer relevant as a result of EGRRCPA’s increase in the stress testing asset threshold to \$250 billion. However, other revisions originally proposed in the April NPR remain necessary to ensure the FDIC’s stress testing regulations remain consistent with those of the Board and the Office of the Comptroller of the Currency (OCC).

II. Description of the Proposed Rule

A. Covered Banks

As described above, section 401 of EGRRCPA amended section 165 of the Dodd-Frank Act by raising the minimum asset threshold for banks required to conduct stress tests from \$10 billion to \$250 billion. The proposed rule would implement this change by eliminating the two existing subcategories of “covered bank”—“\$10 to \$50 billion covered bank” and “over \$50 billion covered bank”—and revising the term “covered bank” to mean a State nonmember bank or State savings association with average total consolidated assets that are greater than \$250 billion. In addition, the proposal would make certain technical and conforming changes to 12 CFR part 325 in order to consolidate requirements, such as those related to reporting and publication, that are currently referenced separately with respect to \$10 billion to \$50 billion covered banks and over \$50 billion covered banks.

B. Frequency of Stress Testing

Section 401 of EGRRCPA also changed the requirement under section 165 of the Dodd-Frank Act to conduct stress tests from “annual” to “periodic.” Consistent with proposals by the Board and the OCC, the NPR proposes that, in general, an FDIC-supervised institution that is a covered bank as of December 31, 2019, would be required to conduct, report, and publish a stress test once every two years, beginning on January 1, 2020, and continuing every even-numbered year thereafter (*i.e.*, 2022, 2024, 2026, etc.). The proposed rule would also add a new defined term, “reporting year,” to the definitions at 12 CFR 325.2. A covered bank’s reporting year would be the year in which a covered bank must conduct, report, and publish its stress test. As noted above, the “reporting year” for most covered banks would generally be every even-numbered year. However, under the

NPR, covered banks that are subsidiaries of global systemically important bank holding companies or bank holding companies that have \$700 billion or more in total assets or cross-jurisdictional activity of \$75 billion or more would be required to conduct, report, and publish stress test results on the same schedule as their bank holding companies, which would be annually under rules proposed by the Board.

Subsequent to these changes, some covered banks would have a biennial reporting year (biennial stress testing covered banks) while others would have an annual reporting year (annual stress testing covered banks). In either case, under the NPR, the dates and deadlines in the FDIC’s stress testing rule would apply for each reporting year for a covered bank. For example, a biennial stress testing covered bank preparing its 2022 stress test would rely on financial data available as of December 31, 2021; use stress test scenarios that would be provided by the FDIC no later than February 15, 2022; provide its report of the stress test to the FDIC by April 5, 2022; and publish a summary of the results of its stress test in the period starting June 15 and ending July 15 of 2022.

Based on the FDIC’s experience overseeing and reviewing the results of company-run stress testing, the FDIC believes that a biennial stress testing cycle would be appropriate for most covered banks. For covered banks that would stress test on a biennial cycle, the FDIC nonetheless expects this level of frequency to provide the FDIC and the covered bank with information that is sufficient to satisfy the purposes of stress testing. In addition, the FDIC would continue to review the covered bank’s stress testing processes and procedures. Under the proposed rule, all covered banks that would conduct stress tests on a biennial basis would be required to conduct stress tests in the same reporting year (*i.e.*, the reporting years for biennial stress testing covered banks would be synchronized). By requiring these covered banks to conduct their stress tests in the same reporting year, the proposal would continue to allow the FDIC to make comparisons across banks for supervisory purposes and assess macroeconomic trends and risks to the banking industry.

As discussed above, under the proposed rule, only certain covered banks would be required to conduct annual stress tests. This subset would be limited to covered banks that are consolidated under holding companies that are required to conduct stress tests more frequently than once every other

year. This requirement reflects the FDIC’s expectation that covered banks that would be required to stress test on an annual basis would be subsidiaries of the largest and most systemically important banking organizations, (*i.e.*, subsidiaries of global systemically important bank holding companies or bank holding companies that have \$700 billion or more in total assets or cross-jurisdictional activity of \$75 billion). This treatment aligns with the agencies’ long-standing policy of applying similar standards to holding companies and their subsidiary banks.

C. Removal of “Adverse” Scenario

As enacted by the Dodd-Frank Act, section 165(i)(2)(C) required the FDIC to establish methodologies for conducting stress tests and further required the inclusion of at least three different stress-testing scenarios: “baseline,” “adverse,” and “severely adverse.” EGRRCPA amended section 165(i) to no longer require the FDIC to include an “adverse” stress-testing scenario and to reduce the minimum number of required stress test scenarios from three to two. Given that the “adverse” stress-testing scenario has provided limited incremental information to the FDIC and market participants beyond what the “baseline” and “severely adverse” stress testing scenarios provide, the NPR proposes to remove the “adverse” scenario in the FDIC’s stress testing rule and to maintain the requirement to conduct stress tests under the “baseline” and “severely adverse” stress testing scenarios. The NPR would also amend the definition of “severely adverse scenario” so that the term is defined relative to the “baseline scenario,” rather than relative to the “adverse scenario.”

D. Transition Process for Covered Banks

Currently, 12 CFR 325.3 provides for a transition period between when a bank becomes a covered bank and when the bank must report its first stress test. The NPR proposes to revise the transition period in 12 CFR 325.3 to conform to the other changes in this proposal. Accordingly, proposed paragraph (a)(2) would generally require a state nonmember bank or state savings association that becomes a covered bank after December 31, 2019, to conduct its first stress test under this part in the first reporting year that begins more than three calendar quarters after the date the state nonmember bank or state savings association becomes a covered bank. For example, if a covered bank that conducts stress tests on a biennial basis becomes a covered bank on March 31 of a non-reporting year (*e.g.*, 2023), the

⁴ 83 FR 13880 (April 2, 2018).

bank would report its first stress test in the subsequent calendar year (*i.e.*, 2024), which is its first reporting year. If the same bank becomes a covered bank on April 1 of a non-reporting year (*e.g.*, 2023), it would skip the subsequent reporting calendar year and the following, non-reporting calendar year, and would report its first stress test in the next reporting year (*i.e.*, 2026). As with other aspects of the stress test rule, the rule reserves to the FDIC the authority to change the transition period for a particular covered bank, as appropriate in light of the nature and level of the activities, complexity, risks, operations, and regulatory capital of the covered bank, in addition to any other relevant factors.⁵

The NPR would not establish a transition period for covered banks that move from a biennial stress testing requirement to an annual stress testing requirement. Accordingly, a covered bank that becomes subject to annual stress testing would be required to begin stress testing annually as of the next reporting year. The FDIC expects that covered banks would anticipate and make arrangements for this development. To the extent that particular circumstances warrant the extension of a transition period, the FDIC would do so based on its reservation of authority and supervisory discretion.

E. Review by Board of Directors

Currently, 12 CFR 325.5(a)(2) requires a covered bank's board of directors, or a committee thereof, to approve and review the policies and procedures of the stress testing processes as frequently as economic conditions or the bank's condition may warrant, but no less than annually. The NPR would revise the frequency of this requirement from "annual" to "once every reporting year" in order to make review by the board of directors consistent with the covered bank's stress testing cycle.

F. Reservation of Authority

12 CFR 325.1(c) currently includes a reservation of authority, pursuant to which the FDIC may revise the frequency and methodology of the stress testing requirement as appropriate for a particular covered bank. The NPR proposes to amend the reservation of authority by clarifying the FDIC's authority to exempt a covered bank from the requirement to conduct a stress test in a particular reporting year.

G. New Range of As-of Dates for Trading Scenario Component

Under 12 CFR 325.4(c), the FDIC may require a covered bank with significant trading activities to include trading and counterparty components in its adverse and severely adverse scenarios. The trading data to be used in this component is as of a date between January 1 and March 1 of a calendar year.⁶ On February 3, 2017 the Board published a final rule that extended this range to run from October 1 of the calendar year preceding the year of the stress test to March 1 of the calendar year of the stress test.⁷ On February 23, 2018, the OCC published a final rule making the same change to its stress testing regulation.⁸ The proposed rule would make the same change to the FDIC's stress testing regulation (as was originally proposed in the April NPR). Extending the as-of date range would ensure consistency with the Board and OCC rules and increase the FDIC's flexibility to choose an appropriate as-of date.

H. Other Changes

As originally proposed in the April NPR, the proposed rule would also remove certain obsolete transitional language in 12 CFR 325.3 that was included to facilitate a 2014 shift in the dates of the annual stress testing cycle.⁹ That transition is now complete and the regulatory transition language is no longer necessary.

Additionally, in order to update and standardize the language used in part 325, references to "this subpart" would be changed to "this part" following the redesignation of the FDIC's stress test rule from subpart C of 12 CFR part 325 to occupy all of part 325.¹⁰ Finally, the proposed rule would eliminate the reference to supervisory guidance in 12 CFR 325.5(b)(1).¹¹

III. Request for Comment

The FDIC invites comment on all aspects of this proposed rule, including the following questions:

1. The proposal would require a covered bank that is consolidated under a holding company that is required to

conduct a stress test at least once every calendar year to treat every calendar year as a reporting year, unless otherwise determined by the FDIC. Is this the appropriate frequency for this group of banks? What are the advantages and disadvantages of requiring a covered bank to conduct a stress test at the same frequency as, or at a different frequency than, its holding company?

2. As an alternative to the requirement that a covered bank be required to stress test annually based on the stress testing requirements of its holding company, should the FDIC establish separate criteria to capture certain large banks (*e.g.*, banks above a specified asset threshold), regardless of whether they are consolidated under a holding company?

3. All other covered banks that are not required to stress test annually would be required to stress test biennially. Is this the appropriate frequency for this category of banks? Should the FDIC further subdivide covered banks into additional categories that would be subject to different frequency requirements?

4. Is the length of the transition period for new covered banks appropriate? Should the proposal establish a transition period for covered banks that are already required to stress test and that move from a biennial stress testing requirement to an annual stress testing requirement?

IV. Regulatory Analysis

A. Riegle Community Development and Regulatory Improvement Act of 1994

The RCDRIA requires that the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.¹² In addition, in order to provide an adequate transition period, new regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.

⁶ 12 CFR 325.4(c).

⁷ 82 FR 9308 (Feb 3, 2017).

⁸ 83 FR 7951 (Feb. 23, 2018).

⁹ 79 FR 69365 (Nov. 21, 2014).

¹⁰ 83 FR 17737 (Apr. 24, 2018). Additional technical amendments to part 325 were recently proposed in a notice of proposed rulemaking to implement the current expected credit losses methodology for allowances. 83 FR 22312 (May 14, 2018).

¹¹ See Interagency Statement Clarifying the Role of Supervisory Guidance, Financial Institution Letter 49–2018 (Sep. 11, 2018).

¹² 12 U.S.C. 4802.

⁵ 12 CFR 325.1(c).

The proposed rule imposes no additional reporting, disclosure, or other requirements on IDIs, including small depository institutions, nor on the customers of depository institutions. The proposed rule would reduce the frequency of company-run stress tests for a subset of banks, raise the threshold for covered banks from \$10 billion to \$250 billion, and reduce the number of required stress test scenarios from three to two for all covered banks. The requirement to conduct, report, and publish a company-run stress testing is a previously existing requirement imposed by section 165(i) of the Dodd-Frank Act. Nonetheless, in connection with determining an effective date for the proposed rule, the FDIC invites comment on any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions, and customers of depository institutions.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.¹³ However, a regulatory flexibility analysis is not required if the agency certifies that the rule would not have a significant

economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined “small entities” to include banking organizations with total assets of less than or equal to \$550 million that are independently owned and operated or owned by a holding company with less than \$550 million in total assets.¹⁴ For the reasons described below and under section 605(b) of the RFA, the FDIC certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The FDIC has considered the potential impact of the proposed rule on small entities in accordance with the RFA. The FDIC supervises 3,533 depository institutions,¹⁵ of which, 2,726 are defined as small banking entities by the terms of the RFA.¹⁶ As discussed in the Background Section, 12 CFR part 325 implements company-run stress test requirements for all state nonmember banks and state savings associations with more than \$10 billion in assets (covered banks). The proposed rule would raise the threshold for covered banks required to conduct company-run stress testing from \$10 billion to \$250 billion. No FDIC-supervised institutions with total consolidated assets of \$550 million or less are or would, as a result of the proposed rule, be subject to 12 CFR part 325. Therefore, the proposed

rule would not affect any small, FDIC-supervised institutions.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this rule have any significant effects on small entities that the FDIC has not identified?

C. The Paperwork Reduction Act

The FDIC has determined that this proposed rule involves a collection of information pursuant to the provisions of the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501 *et seq.*).

A Federal agency may not conduct or sponsor, and an organization is not required to respond to, this information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has obtained an OMB control number for this information collection (3064–0189) and will make a submission to OMB in connection with the proposed rule.

Revised Information Collection Title: Stress Test Reporting Templates and Documentation for Covered Banks with Total Consolidated Assets of \$250 Billion or More.

OMB Number: 3064–0189.

Form Number: FDIC DFAST 14A Summary; FDIC DFAST 14A Scenario.

Affected Public: Insured state nonmember banks.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of responses	Estimated time per response (hours)	Estimated annual burden (hours)
Methodologies and Practices	Recordkeeping ..	Mandatory	1*	Annually	640	640
Stress Test Reporting	Reporting	Mandatory	1*	Annually	240	240
Publications	Disclosure	Mandatory	1*	Annually	160	160
Estimated Total Annual Burden.	1,040

* **Note:** FDIC estimates that none of the existing FDIC-supervised institutions are currently subject to the recordkeeping, reporting or disclosure requirements in the proposed rule. However, FDIC is reporting one respondent as a placeholder to preserve the burden estimate in case an institution becomes subject to these requirements in the future.

Comments are invited on:

1. Whether the information collections are necessary for the proper performance of the Agencies’ functions, including whether the information has practical utility;
2. The accuracy of the Agencies’ estimates of the burden of the information collections, including the

validity of the methodology and assumptions used;

3. Ways to enhance the quality, utility, and clarity of the information to be collected;

4. Ways to minimize the burden of information collections on respondents, including through the use of automated

collection techniques or other forms of information technology; and

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

¹³ 5 U.S.C. 601 *et seq.*

¹⁴ The SBA defines a small banking organization as having \$550 million or less in assets, where “a financial institution’s assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13

CFR 121.201 (as amended, effective December 2, 2014). “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity’s

affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is “small” for the purposes of RFA.

¹⁵ FDIC-supervised institutions are set forth in 12 U.S.C. 1813(q)(2).

¹⁶ FDIC Call Report, September 30, 2018.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the FDIC to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites comment on how to make this proposed rule easier to understand.

For example:

- Has the FDIC organized the material to inform your needs? If not, how could it present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposal be more clearly stated?
- Does the proposed regulation 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 proposed regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the FDIC incorporate to make the proposed regulation easier to understand?

List of Subjects in 12 CFR Part 325

Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements, State savings associations, Stress tests.

Authority and Issuance

For the reasons stated in the preamble, the FDIC proposes to amend 12 CFR part 325 as follows:

PART 325—STRESS TESTING

■ 1. The authority citation for part 325 continues to read as follows:

Authority: 12 U.S.C. 5365(i)(2), 12 U.S.C. 5412(b)(2)(C), 12 U.S.C. 1818, 12 U.S.C. 1819(a)(Tenth), 12 U.S.C. 1831o, and 12 U.S.C. 1831p-1.

■ 2. The heading for part 325 is revised to read as set forth above.

■ 3. In part 325, revise all references to “subpart” to read “part”.

■ 4. Amend § 325.1 by:

■ a. Revising paragraph (b); and

■ b. Redesignating current paragraphs (c)(4), (5), and (6) as (c)(5), (6), and (7), and adding new paragraph (c)(4).

The revisions read as follows:

§ 325.1 Authority, purpose, and reservation of authority.

* * * * *

(b) *Purpose.* This part implements 12 U.S.C. 5365(i)(2), which requires the Corporation (in coordination with the Board of Governors of the Federal

Reserve System (Board) and the Federal Insurance Office) to issue regulations that require each covered bank to conduct periodic stress tests, and establishes a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements.

(c) * * *

* * * * *

(4) The Corporation may also exempt a covered bank from the requirement to conduct a stress test in a particular reporting year.

* * * * *

■ 4. Amend § 325.2 by:

■ a. Removing paragraph (a) and redesignating current paragraphs (b) through (h) as paragraphs (a) through (g);

■ b. Revising the definitions of “covered bank” in paragraph (c),

■ c. Adding the definition of “reporting year” as paragraph (h);

■ d. Revising the definitions of “scenarios” in paragraph (i),

■ e. Revising the definitions of “severely adverse scenario” in paragraph (j), and

■ f. Revising the definitions of “stress testing cycle” in paragraph (m).

The revisions and additions read as follows:

§ 325.2 Definitions.

For purposes of this part—

* * * * *

(c) *Covered bank* means any state nonmember bank or state savings association with average total consolidated assets calculated as required under this part that are greater than \$250 billion.

* * * * *

(h) *Reporting year* means the calendar year in which a covered institution must conduct, report, and publish its stress test, as required under 12 CFR 325.4(d).

(i) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered bank that the Corporation determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline and severely adverse scenarios.

(j) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered bank and that overall are significantly more severe than those associated with the baseline scenario and may include trading or other additional components.

* * * * *

(m) *Stress test cycle* means the period beginning January 1 of a reporting year and ending on December 31 of that reporting year.

■ 5. Revise § 325.3 to read as follows:

§ 325.3 Applicability.

(a) *Covered banks subject to stress testing.* (1) A state nonmember bank or state savings association that is a covered bank as of December 31, 2019, is subject to the requirements of this subpart for the 2020 reporting year.

(2) A state nonmember bank or state savings association that becomes a covered bank after December 31, 2019, shall conduct its first stress test under this part in the first reporting year that begins more than three calendar quarters after the date the state nonmember bank or state savings association becomes a covered bank, unless otherwise determined by the Corporation in writing.

(b) *Ceasing to be a covered bank.* A covered bank shall remain subject to the stress test requirements of this part unless and until total consolidated assets of the covered bank falls to \$250 billion or less for each of four consecutive quarters as reported on the covered bank’s most recent Call Reports. The calculation will be effective on the as-of date of the fourth consecutive Call Report.

(c) *Covered bank subsidiaries of a bank holding company or savings and loan holding company subject to periodic stress test requirements.* (1) Notwithstanding the requirements applicable to covered banks under this section, a covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company that is required to conduct a periodic company-run stress test under applicable regulations of the Board of Governors of the Federal Reserve System may elect to conduct its stress test and report to the FDIC on the same timeline as its parent bank holding company or savings and loan holding company.

(2) A covered bank that elects to conduct its stress test under paragraph (c)(1) of this section will remain subject to the same timeline requirements of its parent company until otherwise approved by the FDIC.

■ 6. Revise § 325.4 to read as follows:

§ 325.4 Periodic stress tests required.

Each covered bank must conduct the periodic stress test under this part subject to the following requirements:

(a) *Financial data*—A covered bank must use financial data as of December 31 of the calendar year prior to the reporting year.

(b) *Scenarios provided by the Corporation.* In conducting the stress test under this part, each covered bank must use the scenarios provided by the

Corporation. The scenarios provided by the Corporation will reflect a minimum of two sets of economic and financial conditions, including baseline and severely adverse scenarios. The Corporation will provide a description of the scenarios required to be used by each covered bank no later than February 15 of the reporting year.

(c) *Significant trading activities.* The Corporation may require a covered bank with significant trading activities, as determined by the Corporation, to include trading and counterparty components in its severely adverse scenarios. The trading and counterparty position data used in this component will be as of a date between October 1 of the year preceding the reporting year and March 1 of the reporting year, and the Corporation will communicate a description of the component to the covered bank no later than March 1 of the reporting year.

(d) *Frequency.* A covered bank that is consolidated under a holding company that is required, pursuant to applicable regulations of the Board of Governors of the Federal Reserve System, to conduct a stress test at least once every calendar year must treat every calendar year as a reporting year, unless otherwise determined by the Corporation. All other covered banks must treat every even-numbered calendar year beginning January 1, 2020 (*i.e.*, 2022, 2024, 2026, etc.), as a reporting year, unless otherwise determined by the Corporation.

■ 7. Amend § 325.5 by revising paragraph (b) to read as follows:

§ 325.5 Methodologies and practices.

* * * * *

(b) *Controls and oversight of stress testing processes.* (1) The senior management of a covered bank must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress test processes satisfy the requirements in this part. These policies and procedures must, at a minimum, describe the covered bank's stress test practices and methodologies, and processes for validating and updating the covered bank's stress test practices and methodologies consistent with applicable laws and regulations.

(2) The board of directors, or a committee thereof, of a covered bank must approve and review the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the covered bank may warrant, but no less than once every reporting year. The board of directors and senior

management of the covered bank must receive a summary of the results of the stress test.

(3) The board of directors and senior management of each covered bank must consider the results of the stress tests in the normal course of business, including but not limited to, the covered bank's capital planning, assessment of capital adequacy, and risk management practices.

■ 8. Revise § 325.6 to read as follows:

§ 325.6 Required reports of stress test results to the FDIC and the Board of Governors of the Federal Reserve System.

(a) *Report required for periodic stress test results.* A covered bank must report to the FDIC and to the Board of Governors of the Federal Reserve System, on or before April 5 of the reporting year, the results of the stress test in the manner and form specified by the FDIC.

(b) *Content of reports.* (1) The reports required under paragraph (a) of this section must include under the baseline scenario, severely adverse scenario, and any other scenario required by the Corporation under this part, a description of the types of risks being included in the stress test, a summary description of the methodologies used in the stress test, and, for each quarter of the planning horizon, estimates of aggregate losses, pre-provision net revenue, provision for loan and lease losses, net income, and pro forma capital ratios (including regulatory and any other capital ratios specified by the FDIC). In addition, the report must include an explanation of the most significant causes for the changes in regulatory capital ratios and any other information required by the Corporation.

(2) The description of aggregate losses and net income must include the cumulative losses and cumulative net income over the planning horizon, and the description of each regulatory capital ratio must include the beginning value, ending value, and minimum value of each ratio over the planning horizon.

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Corporation under this part and related materials will be determined in accordance with applicable law including any available exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the FDIC's Rules and Regulations regarding the Disclosure of Information (12 CFR part 309).

■ 9. Revise § 325.7 to read as follows:

§ 325.7 Publication of stress test results.

(a) *Publication date*—(1) A covered bank must publish a summary of the results of its stress tests in the period starting June 15 and ending July 15 of the reporting year, provided:

(A) Unless the Corporation determines otherwise, if the covered bank is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board of Governors of the Federal Reserve System under 12 CFR part 252, then, within the June 15 to July 15 period, such covered bank may not publish the required summary of its periodic stress test earlier than the date that the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company.

(B) If the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company prior to June 15, then such covered bank may publish its stress test results prior to June 15, but no later than July 15, through actual publication by the covered bank or through publication by the parent holding company under paragraph (b) of this section.

(b) *Publication method.* The summary required under this section may be published on the covered bank's website or in any other forum that is reasonably accessible to the public. A covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company that is required to conduct a company-run stress test under applicable regulations of the Board of Governors of the Federal Reserve System will be deemed to have satisfied the public disclosure requirements under this subpart if it publishes a summary of its stress test results with its parent bank holding company's or savings and loan holding company's summary of stress test results. Subsidiary covered banks electing to satisfy their public disclosure requirement in this manner must include a summary of changes in regulatory capital ratios of such covered bank over the planning horizon, and an explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Information to be disclosed in the summary.* A covered bank must disclose the following information regarding the severely adverse scenario if it is not a consolidated subsidiary of a parent bank holding company or savings and loan holding company that has elected to

make its disclosure under 12 CFR 325.3(d):

* * * * *

Dated at Washington, DC, on December 18, 2018.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2018-27824 Filed 12-27-18; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2018-1010; Product Identifier 2018-NM-148-AD]

RIN 2120-AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to remove Airworthiness Directive (AD) 2012-02-18, which applies to all Dassault Aviation Model MYSTERE-FALCON 50 airplanes. AD 2012-02-18 requires revising the maintenance program to include revised airworthiness limitations. AD 2012-02-18 is no longer necessary because we have since issued AD 2017-09-03 to address the unsafe condition. Accordingly, we propose to remove AD 2012-02-18.

DATES: We must receive comments on this proposed AD by February 11, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-

1010; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3226.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2018-1010; Product Identifier 2018-NM-148-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We issued AD 2012-02-18, Amendment 39-16941 (77 FR 12175, February 29, 2012) (“AD 2012-02-18”), for all Dassault Aviation Model MYSTERE-FALCON 50 airplanes. AD 2012-02-18 requires revising the maintenance program to include revised airworthiness limitations. AD 2012-02-18 was prompted by reports of cracking of the flap tracks. We issued AD 2012-02-18 to address cracking of the flap tracks, which could lead to flap asymmetry and loss of control of the airplane.

Actions Since AD 2012-02-18 Was Issued

Since we issued AD 2012-02-18, we have issued AD 2017-09-03, Amendment 39-18865 (82 FR 21467, May 9, 2017) (“AD 2017-09-03”), which addresses the unsafe condition. AD 2017-09-03 requires revising the maintenance or inspection program, as applicable, to incorporate new and more

restrictive maintenance requirements and airworthiness limitations, which include an eddy current inspection of flap tracks 2 and 5 to address cracking.

FAA’s Conclusions

Upon further consideration, we have determined that AD 2012-02-18 is no longer necessary. Accordingly, this proposed AD would remove AD 2012-02-18. Removal of AD 2012-02-18 would not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Costs of Compliance

This proposed AD would add no cost. This proposed AD would remove AD 2012-02-18 from 14 CFR part 39; therefore, operators would no longer be required to show compliance with that AD.

Authority for this Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency’s authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, “General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and