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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2019–0126]

RIN 3150–AK35

List of Approved Spent Fuel Storage Casks: Holtec International Storage, Transport and Repository (HI–STAR) 100 Storage System, Certificate of Compliance No. 1008, Amendment No. 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of November 5, 2019, for the direct final rule that was published in the **Federal Register** on August 22, 2019. This direct final rule amended the NRC's spent fuel storage regulations by revising the Holtec International Storage, Transport and Repository (HI–STAR) 100 Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 3 to Certificate of Compliance No. 1008.

DATES: *Effective date:* The effective date of November 5, 2019, for the direct final rule published August 22, 2019 (84 FR 43669), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2019–0126 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• Federal Rulemaking website: Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0126. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The proposed amendment to the certificate, proposed changes to the technical specifications, and preliminary safety evaluation report are available in ADAMS under Accession No. ML19137A299. The final amendment to the certificate, final changes to the technical specifications, and final safety evaluation report can also be viewed in ADAMS under Accession No. ML19270D276.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Bernard H. White, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6577; email: *Bernard.White@nrc.gov* or Solomon Sahle, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–3781; email: *Solomon.Sahle@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: On August 22, 2019 (84 FR 43669), the NRC published a direct final rule amending § 72.214 of title 10 of the *Code of Federal Regulations,* ''List of approved spent fuel storage casks,'' to include Amendment No. 3 to Certificate of Compliance No. 1008 for the Holtec International Storage, Transport and Repository (HI–STAR) 100 Storage System. Specifically, Amendment No. 3 revises the technical specifications to: Include the multipurpose canister (MPC)–32 for storage of pressurized-water reactor spent fuel in the HI–STAR 100 Storage System; include the Metamic neutron absorber for MPC–32, MPC–24, and MPC–68; credit the soluble boron in criticality analyses for both MPC–32 and MPC–24; incorporate standard system features and ancillaries such as the forced helium dehydration; allow for horizontal storage of the casks; provide updated drawings; and revise the MPC design pressure for accident condition to 200 pounds per square inch gauge. Amendment No. 3 also makes other administrative changes to the technical specifications.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on November 5, 2019. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated at Rockville, Maryland, this 4th day of October, 2019.

For the Nuclear Regulatory Commission.

Pamela J. Shepherd-Vladimir,

Acting Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2019–22148 Filed 10–9–19; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 26

[Docket ID OCC–2018–0011]

RIN 1557–AE22

FEDERAL RESERVE SYSTEM

12 CFR Parts 212 and 238

[Docket No. R–1641]

RIN 7100–AF31

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

RIN 3064–AE57

Thresholds Increase for the Major Assets Prohibition of the Depository Institution Management Interlocks Act Rules

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

ACTION: Final rule.

SUMMARY: The OCC, the Board, and the FDIC (collectively, the agencies) are issuing a final rule that increases the thresholds in the major assets prohibition for management interlocks for purposes of the Depository Institution Management Interlocks Act (DIMIA). The DIMIA major assets prohibition prohibits a management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate of such an organization) from serving at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate of such an organization). DIMIA provides that the agencies may adjust, by regulation, the major assets prohibition thresholds in order to allow for inflation or market changes. The final rule increases both major assets prohibition thresholds to $10 billion to account for changes in the United States banking market since the current thresholds were established in 1996.

DATES: The final rule is effective on October 10, 2019.

FOR FURTHER INFORMATION CONTACT:

OCC: Daniel Perez, Senior Attorney, Christopher Rafferty, Attorney, Chief Counsel's Office, (202) 649–5490; or for persons who are deaf or hearing-impaired, TTY, (202) 649–5597; Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Claudia Von Pervieux, Senior Counsel, (202) 452–2552; or Andrew Hartlage, Counsel, (202) 452–6483, of the Legal Division; Katie Cox, Manager, (202) 452–2721; or Melissa Clark, Lead Financial Institution Policy Analyst, (202) 452–2277, of the Division of Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf, (202) 263–4869, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

FDIC: Karen Jones Currie, Senior Examination Specialist, Division of Risk Management Supervision, (202) 898–3981; Mark Mellon, Counsel, Legal Division, (202) 898–3884; Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Summary of Final Rule and Policy Objectives

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) are issuing a final rule that increases the major assets prohibition thresholds for management interlocks for purposes of the Depository Institution Management Interlocks Act (DIMIA).[1] The increase in the thresholds accounts for changes in the United States banking market since Congress established the current thresholds in 1996. Prior to this final rule, a management official [2] of a depository organization [3] (or any affiliate of such organization) with total assets exceeding $2.5 billion could not serve as a management official of an unaffiliated depository organization (or any affiliate of such organization) with total assets exceeding $1.5 billion without seeking an exemption. The final rule increases both thresholds to $10 billion.

By increasing the major assets prohibition thresholds, the final rule reduces the number of depository organizations subject to the major assets prohibition. This will reduce burden by relieving depository organizations below the increased thresholds from having to ask the agencies for exemptions from the major assets prohibition. The agencies anticipate that raising the asset thresholds will assist small depository organizations in finding qualified directors by eliminating the need to file requests for exemptions from the major assets prohibition.

B. Background

DIMIA—implemented in the agencies' respective rules at 12 CFR parts 26, 212, 238 subpart J, and 348—fosters competition by prohibiting a management official from serving at the same time as a management official of an unaffiliated depository organization in situations where the management interlock may have an anticompetitive effect.[4] DIMIA achieves this purpose through three statutory prohibitions, which are implemented in the agencies' rules.

The first prohibition, the community prohibition, precludes a management official of a depository organization from serving at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or any depository institution affiliate thereof) have offices in the same community.[5] The second prohibition, the relevant metropolitan statistical area (RMSA) prohibition, precludes a management official of a depository organization from serving at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or any depository institution affiliate thereof) have offices in the same RMSA [6] and each depository organization has total assets of $50 million or more. The third prohibition, the major assets prohibition, precludes

[1] 12 U.S.C. 3201 *et seq.*

[2] The agencies' rules define ''management official'' to include directors; advisory or honorary directors of a depository institution with total assets of $100 million or more; ''senior executive officers,'' as that term is defined in the agencies' rules regarding notice of addition or change of directors and senior executive officers; branch managers; trustees of depository organizations under the control of trustees; and any persons who have a ''representative or nominee'' (as the agencies' rules define that term) serving in any of the capacities described above. 12 CFR 26.2(j)(1) (OCC); 12 CFR 212.2(j)(1) and 238.92(j)(1) (Board); and 12 CFR 348.2(k)(1) (FDIC).

[3] The agencies' rules define ''depository organization'' to mean a depository institution or a depository holding company. The agencies' rules define ''depository institution'' to mean a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. Additionally, the agencies' rules define ''depository institution'' also to mean a United States office of a foreign commercial bank, including a branch or agency. The agencies' rules define ''depository holding company'' to mean a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act (12 U.S.C. 3201)) having its principal office located in the United States. 12 CFR 26.2 (OCC); 12 CFR 212.2 and 238.92 (Board); and 12 CFR 348.2 (FDIC).

[4] 12 CFR 26.1(b) (OCC); 12 CFR 212.1(b) and 238.91(b) (Board); and 12 CFR 348.1(b) (FDIC).

[5] The agencies' rules define ''community'' to mean a city, town, or village, and contiguous and adjacent cities, towns, or villages. 12 CFR 26.2(c) (OCC); 12 CFR 212.2(c) and 238.92(c) (Board); and 12 CFR 348.2(c) (FDIC).

[6] The agencies' rules define ''RMSA'' to mean an MSA, a primary MSA, or a consolidated MSA that is not comprised of designated Primary MSAs to the extent that these terms are defined and applied by the Office of Management and Budget. 12 CFR 26.2(m) (OCC); 12 CFR 212.2(m) and 238.92(m) (Board); and 12 CFR 348.2(c) (FDIC).

a management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate of such an organization) from serving at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. While the first two prohibitions capture the risk of anticompetitive effects from management interlocks between depository organizations that operate within overlapping geographical areas, the major assets prohibition addresses management interlocks between depository organizations that are large enough that a management interlock may present anticompetitive concerns despite the fact that the involved organizations may not have offices in the same community or RMSA.

DIMIA allows the agencies to prescribe regulations that permit otherwise prohibited interlocks under certain circumstances.[7] Pursuant to the implementing regulations, the appropriate agency may exempt a prohibited interlock in response to an application by a depository organization if the appropriate agency finds that the interlock would not result in a monopoly or substantial lessening of competition and would not present safety and soundness concerns.[8]

The $1.5 billion and $2.5 billion thresholds in the major assets prohibition were enacted through amendments to DIMIA in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).[9] During hearings on EGRPRA, it was noted that the increase of the asset thresholds to $1.5 billion and $2.5 billion was made because the previous asset threshold numbers did not ''realistically reflect the size of large institutions in today's market.'' [10]

DIMIA, as amended, also provides that the agencies may adjust the thresholds as necessary ''to allow for inflation or market changes.'' [11] Unadjusted since 1996, the major assets prohibition thresholds set forth in EGRPRA do not reflect the growth and consolidation among U.S. depository organizations that has occurred in the intervening years and do not realistically reflect the size of large institutions today. For instance, based on regulatory reporting, total assets at depository organizations have grown by more than 250 percent between the fourth quarter of 1996 and the fourth quarter of 2018. Moreover, in a March 2017 report to Congress mandated by EGRPRA, the agencies stated that they intended to reduce regulatory burden by adjusting the major assets thresholds in the agencies' DIMIA regulations.[12]

II. Proposed Rule and Comments Received

On January 31, 2019, the agencies published for comment a notice of proposed rulemaking (proposed rule or proposal) to amend the agencies' DIMIA regulations.[13] The proposed rule would have increased the major assets prohibition thresholds from $1.5 billion and $2.5 billion to $10 billion each. Alternatively, the proposed rule requested comment on three calibrations that would have increased the major assets prohibition thresholds based on market changes or inflation that had occurred during the period following the establishment of the thresholds. The proposed rule also described the procedures the agencies would use to increase the thresholds to reflect inflation in the future.

In response to the proposed rule, the agencies received six comment letters,[14] five of which were responsive. Four of the five comment letters expressed support for increasing the major assets prohibition thresholds, while the fifth comment letter, without expressing an opinion about the thresholds, suggested that the agencies use clear language and consider ''the most recent developments for measuring market change.'' Two of the five comment letters also included a suggestion that was outside the scope of the proposal—namely, that the agencies expand the number of exemptions from the definition of ''management official.''

Comments Regarding the Major Assets Prohibition Thresholds

Two commenters specifically expressed support for the agencies' proposal to increase the major assets prohibition thresholds to $10 billion. One commenter noted that increasing the thresholds in such a manner would help community banks find qualified management officials, especially in rural areas. The second commenter supported the $10 billion thresholds but suggested that the agencies tie further, periodic threshold adjustments to an asset growth index, rather than to inflation.[15] The commenter suggested that such periodic adjustments could be made through a direct final rule without notice and comment.

Two commenters generally supported increasing the thresholds but provided alternatives to the proposal. One commenter suggested that the agencies adjust the thresholds based on a depository organization's share of total industry assets, centered on the growth of average assets per bank from 1996 to 2018. The second commenter suggested that the agencies adjust the thresholds based on asset growth and stated that Congress intended for DIMIA to have two separate thresholds, rather than a single, consistent threshold in order to make it more difficult for a larger depository organization to control a smaller depository organization. Both commenters suggested that their proposed alternative methods for adjusting the thresholds would better reflect the anticompetitive concerns embodied in DIMIA.

As explained in more detail in the following section, the agencies believe that the proposed $10 billion asset thresholds appropriately capture the anticompetitive risk that the major assets prohibition is intended to address by prohibiting interlocks between larger depository organizations while exempting smaller or community-banking-organization-sized depository organizations. A $10 billion asset threshold is consistent with thresholds that Congress and the agencies have used to distinguish between small institutions and larger institutions. Further, establishing identical asset

[7] 12 U.S.C. 3207.

[8] 12 CFR 26.6(a) (OCC); 12 CFR 212.6(a) and 238.96(a) (Board); and 12 CFR 348.6(a) (FDIC). The agencies have published an interagency interpretation that explains which agency is the appropriate agency for purposes of filing a request for a general exemption under the agencies' rules. *See Permissible Interlocks—Regulatory Exceptions; Agency Approval,* 1 Fed. Res. Reg. Serv. (Bd. of Governors of the Fed. Reserve Sys.) § 3–831 (Nov. 18, 1992), 2006 WL 3928616.

[9] *See* Economic Growth and Regulatory Paperwork Reduction Act of 1996, Public Law 104–208, Title II, 110 Stat. 3009–9, § 2210(a).

[10] *The Economic Growth and Regulatory Paperwork Reduction Act—S. 650: Hearings Before the Subcomm. on Fin. Insts. & Regulatory Relief of the S. Comm. on Banking, Hous., & Urban Affairs,* 104 Cong. 90 (1995) (statement of Eugene A. Ludwig, Comptroller of the Currency). Initially, the thresholds were set at $500,000,000 and $1,000,000,000. *See* Financial Institutions Regulatory and Interest Rate Control Act of 1978, Public Law 95–630, Title II, Depository Institutions Management Interlocks Act, 92 Stat. 3641, 3672 (Nov. 10, 1978).

[11] 12 U.S.C. 3203.

[12] Federal Financial Institutions Examination Council, Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act, 82 FR 15900, 15903 (Mar. 30, 2017), *https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

[13] 84 FR 604 (Jan. 31, 2019).

[14] Three comment letters were submitted by industry groups, and three comment letters were submitted by individuals.

[15] Specifically, the commenter recommended that the agencies adjust the thresholds based on the annual percentage change in commercial bank assets reflected in the Federal Reserve's ''H.8 Assets and Liabilities of Commercial Banks in the United States.''

threshold levels will enable depository organizations to ascertain more easily whether they may be subject to the major assets prohibition. DIMIA does not require the agencies to set the thresholds at two different levels, nor do the agencies believe that setting the thresholds at different levels would better serve the purpose of DIMIA's major assets prohibition. In consideration of these factors, the agencies believe increasing both asset thresholds to $10 billion is appropriate.

With regard to the suggestion that the agencies tie future threshold adjustments to an asset growth index, the agencies believe that changes to the methodology for future, periodic adjustments are outside the scope of this rulemaking, which requested comment on a one-time adjustment to the asset thresholds to account for market changes. The agencies have existing authority under DIMIA and the agencies' DIMIA regulations to make periodic, discretionary adjustments to the thresholds to account for inflation through direct final rules without notice and comment.[16] In the proposal, the agencies stated that, following adjustment of the thresholds by the proposed rule and consistent with existing authority, the agencies would make further adjustments to the thresholds to account for inflation by publishing a direct final rule without notice and comment.[17] The agencies noted that if further adjustments to the thresholds are warranted for reasons other than inflation, the agencies would propose another adjustment through a subsequent notice of proposed rulemaking and seek public comment on the proposal.[18] As a reference for future, periodic adjustments, the agencies believe that making future adjustments based on the inflation measure in the agencies' rules would be less volatile than making future adjustments based on asset growth and would be more appropriate for a recurring process.

Comments Discussing Other Aspects of DIMIA

Two commenters suggested that the agencies expand the current list of exemptions from the definition of ''management official'' contained in the agencies' rules. One of the commenters suggested that the agencies revise the definition to exempt management officials at non-depository affiliates and management officials of foreign affiliates. Another commenter suggested that the agencies exempt depository organizations' foreign affiliates that do not engage in business or activities in the United States.

The proposed rule did not contemplate changes to the definition of ''management official,'' and the agencies are not adopting the commenters' suggestions at this time; however, the agencies will consider incorporating these suggestions in a future revision to the agencies' rules.

III. Description of Final Rule

After considering the comments received, the agencies are adopting without change the proposal to increase the major assets prohibition thresholds from $1.5 billion and $2.5 billion to $10 billion each. As finalized, the major assets prohibition will prohibit management interlocks between unaffiliated depository organizations with total assets exceeding $10 billion (or any affiliates of such organizations).

The final rule's increase to the major assets prohibition thresholds, and the application of the major assets prohibition to larger depository organizations rather than small depository organizations (*i.e.,* community banking organizations), is consistent with the purpose of the major assets prohibition of DIMIA.[19] A major assets prohibition with a $10 billion asset threshold will prohibit interlocks between larger depository organizations, which could present a risk of anticompetitive conduct at the level of the U.S. banking market, while exempting smaller or community-banking-organization-sized depository organizations, which generally operate in regional markets and do not present the same competitive risks to the broader U.S. banking market.[20]

In addition, the final rule is consistent with the current thresholds that Congress and the agencies have used to distinguish between small institutions and larger institutions. For example, sections 201 and 203 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 provide certain burden relief for institutions with less than $10 billion in total consolidated assets.[21] Additionally, the Dodd-Frank Wall Street Reform and Consumer Protection Act uses a $10 billion threshold to distinguish between large banks subject to supervision by the Consumer Financial Protection Bureau and small banks subject to prudential regulator supervision.[22] A $10 billion threshold also is consistent with the asset threshold used by the Board to distinguish between community banking organizations and larger banking organizations for supervisory and regulatory purposes,[23] the asset threshold used by the FDIC to distinguish between ''small'' and ''large'' institutions for purposes of its deposit insurance assessment regulations,[24] and the asset threshold used by the OCC to distinguish community banks from midsize and large banks for supervisory purposes.[25] Further, having a single, consistent asset threshold will simplify the agencies' DIMIA regulations and enable depository organizations to identify more easily whether they may be subject to the major assets prohibition.

The final rule increases the number of depository organizations that would no longer be subject to the major assets prohibition and therefore reduces the number of institutions that need to seek an exemption from the major assets prohibition from the appropriate agency.

As of December 31, 2018, 981 depository organizations had total assets of more than $1.5 billion and were

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17 ''The [agencies] will adjust these thresholds, as necessary, based on the year-to-year change in the average of the Consumer Price Index for the Urban Wage Earners and Clerical Workers, not seasonally adjusted, with rounding to the nearest $100 million. The [agencies] will announce the revised thresholds by publishing a final rule without notice and comment in the **Federal Register**.'' 12 CFR 26.3(c), 212.3(c), 238.93(c), and 348.3(c).

18 *See* 84 FR 604 at 607 (Jan. 31, 2019).

19 Legislative history indicates that Congress intended for the major assets prohibition to apply to ''larger'' organizations. *See* H.R. Rep. No. 95–1383, at 5 (1978); S. Rep. No. 95–323, at 13 (1977).

20 While depository organizations with $10 billion or less in total assets will not be covered by the major assets prohibition against management interlocks, those depository organizations are still subject to the community and RMSA prohibitions.

21 Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, Public Law 115–174, § 201, 203, 132 Stat. 1296, 1306, 1309 (2018) (enacting a ''Community Bank Leverage Ratio'' capital simplification framework that is generally available to depository institutions and depository institution holding companies with $10 billion or less in total consolidated assets and exempting generally from the prohibitions of section 13 of the Bank Holding Company Act of 1956, also known as the ''Volcker Rule,'' certain entities with $10 billion or less in total consolidated assets).

22 Public Law 111–203, § 1025 & 1026, 124 Stat. 1376, 1990–95 (2010).

23 Bd. of Governors of the Fed. Reserve Sys., Commercial Bank Examination Manual (rev. Jan. 2018), *https://www.federalreserve.gov/publications/files/cbem.pdf.*

24 *See* 12 CFR 327.8(e) and (f). For the purposes of the FDIC's assessment regulations, a ''small institution'' generally is an insured depository institution with less than $10 billion in total assets. Generally, a ''large institution'' is an insured depository institution with $10 billion or more in total assets or that is treated as a large institution for assessment purposes under section 327.16(f).

25 Comptroller's Handbook, ''OCC Community Bank Supervision'' (June 2018), *https://www.occ.gov/publications/publications-by-type/comptrollers-handbook/community-bank-supervision/pub-ch-community-bank-supervision.pdf.*

subject to the major assets prohibition.[26] In addition, 751 depository organizations with total assets of more than the $2.5 billion threshold were subject to restrictions on management interlocks with unaffiliated depository organizations with total assets exceeding the $1.5 billion threshold. Raising the $1.5 billion asset threshold to $10 billion would exempt 672 depository organizations from the major assets prohibition as of December 31, 2018. As of December 31, 2018, 309 depository organizations reported total assets greater than $10 billion and would remain subject to the major assets prohibition.

IV. Regulatory Analysis

A. Administrative Procedure Act and Effective Date

The agencies are issuing the final rule without the 30-day delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).[27] Pursuant to section 553(d) of the APA, the required publication of a substantive rule shall be made not less than 30 days before its effective date, except for, among other things, ''a substantive rule which grants or recognizes an exemption or relieves a restriction.''[28]

The final rule increases the asset thresholds for the major assets prohibition, which will increase the number of depository organizations that are no longer subject to the prohibition and therefore reduce the number of depository organizations that will need to seek an exemption from the prohibition. The effect of the final rule will be to relieve certain depository organizations from the restrictions of the DIMIA major assets prohibition. Accordingly, the agencies are issuing the final rule with an immediate effective date.

B. Riegle Community Development and Regulatory Improvement Act

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on depository institutions, 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. Section 302(b) requires that new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on depository institutions generally shall 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, subject to certain exceptions that are not relevant here.

The final rule does not impose additional reporting, disclosure, or other requirements on depository institutions, including small depository institutions or customers of depository institutions; therefore, section 302 of CDRI does not apply. The agencies note, however, that in determining the effective date and administrative compliance requirements for this final rule, they considered the administrative burdens and benefits of the rule, including that the rule reduces burden on the depository organizations to which it applies.

C. Paperwork Reduction Act of 1995

Certain provisions of the final rule contain a ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and the 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 OMB control number for the OCC is 1557–0014; and the FDIC's is 3064–0118. These information collections will be extended for three years, with revision. Although the Board has previously included these collections of information under OMB control number 7100–0134, the collections of information are not currently cleared under the PRA. Therefore, the Board is implementing a new collection of information in connection with this final rule. The agencies did not receive any specific comments on the PRA. The information collection requirements contained in the proposed rulemaking were submitted by the OCC and FDIC to OMB under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB's implementing regulations (5 CFR part 1320). OMB filed a comment in response to the submissions, instructing the OCC and FDIC to resubmit at the final rule stage and discuss the reason for any increase in burden. The OCC and FDIC have resubmitted the information collection requirements to OMB in connection with the final rule. The Board reviewed the final rule under the authority delegated to the Board by OMB. The FDIC's and OCC's burden increased slightly through an effort to conform its burden estimates to those of the other agencies. In addition, the agencies have increased their estimates for the burden associated with recordkeeping from the initial proposal to reflect the fact that the number of respondents that may engage in recordkeeping would not be decreased by the final rule. Additionally, the agencies have removed from their burden table estimates references to 12 CFR 26.6(b) (OCC); 12 CFR 212.6(b) and 238.96(b) (Board); and 12 CFR 248.6(b) (FDIC), as those sections do not contain an information collection. This change has not impacted the estimated burden calculation.

PRA Burden Estimates

OCC

OMB control number: 1557–0014.
Estimated number of respondents: 2.
Estimated average hours per response:
Reporting Sections 26.4(h)(1)(i)–4.
Recordkeeping Section 26.5(b)–3.
Estimated annual burden hours: 14.

Board

OMB control number: 7100–NEW (The current management official interlocks reporting and recordkeeping requirements are housed under OMB control number 7100–0134 and will be separated out in a new OMB control number).

Estimated number of respondents: 4 for reporting requirements and 8 for recordkeeping requirements.

Estimated average hours per response:

Reporting Sections 212.4(h)(1)(i) and 238.94(h)(1)(i)–4.

Recordkeeping Section 212.5(b) and 238.95(b)–3.

Estimated annual burden hours: 40.

FDIC

OMB control number: 3064–0118.
Estimated number of respondents: 6.
Estimated average hours per response:
Reporting Sections 348.4(h)(1)(i)–4.
Recordkeeping Section 348.5(b)–3.
Estimated annual burden hours: 42.

[26] The analysis in this preamble reflecting changes in the number of depository organizations exempted does not incorporate credit unions because this final rule does not apply to credit unions. Data used in this analysis were drawn from the December 31, 1996, and December 31, 2018, Consolidated Reports of Condition and Income (Call Reports), Consolidated Financial Statements for Holding Companies, Parent Company Only Financial Statements for Large Holding Companies, Parent Company Only Financial Statements for Small Holding Companies, and Reports of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

[27] 5 U.S.C. 553.

[28] 5 U.S.C. 553(d)(1).

D. Regulatory Flexibility Act

The Regulatory Flexibility Act [29] (RFA) requires an agency either to provide a final regulatory flexibility analysis with a final rule for which general notice of proposed rulemaking is required or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) establishes size standards that define which entities are small businesses for purposes of the RFA.[30] Under regulations issued by the SBA, the size standard to be considered a small business for banking entities subject to the proposed rule is $600 million or less in consolidated assets.[31] Under 5 U.S.C. 605(b), this analysis is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the **Federal Register** along with its rule.

OCC: The OCC currently supervises approximately 782 small entities.[32] Currently, the major assets prohibition of DIMIA prevents a management official of a depository organization with total assets exceeding $2.5 billion (depository organization threshold) or any affiliate of such organization from serving as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (unaffiliated organization threshold). This final rule will increase both thresholds to $10 billion in assets, which will only impact banking organizations with total consolidated assets between the current thresholds of $1.5 billion and $2.5 billion and the new threshold of $10 billion. No OCC-regulated small entities are impacted by these changes. Additionally, the changes in this final rule do not impose any new reporting, recordkeeping, or other compliance requirements. For these reasons, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Board: In accordance with section 603(a) of the RFA,[33] the Board published an Initial Regulatory Flexibility Analysis (IFRA) with the proposal.[34] The Board solicited comment on the effect of the proposal on small entities. The Board did not receive any comment on the IFRA.

The RFA requires an agency to prepare a final regulatory flexibility analysis (FRFA) unless the agency certifies that the rule will not, if promulgated, have a significant impact on a substantial number of small entities. The FRFA must contain: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the agency's assessment of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the SBA in response to the proposed rule, and a detailed statement of any changes made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the 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; (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities, including a statement for selecting or rejecting the other significant alternatives to the rule considered by the agency.

1. Statement of the need for, and objectives of, the final rule.

As discussed in the *Supplementary Information,* the final rule increases the major assets prohibition thresholds for management interlocks in the Board's rules implementing DIMIA. Under the current major assets prohibition, a management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate of such an organization) is prohibited from serving at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. For these purposes, the term ''depository organization'' means a depository institution or a depository holding company. ''Depository institution'' means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a depository institution. ''Depository holding company'' means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of DIMIA) having its principal office located in the United States.[35] As discussed above, the Board's objective in issuing this rule is to reduce the number of depository organizations subject to the major assets prohibition. The Board has authority under DIMIA to prescribe regulations necessary to carry out DIMIA with respect to state banks that are members of the Federal Reserve System, bank holding companies, and savings and loan holding companies.[36]

2. A discussion of the significant issues raised by public comments in response to the IRFA, and the Board's response to any comments filed by the Chief Counsel for Advocacy of the SBA in response to the proposed rule.

The Board did not receive any comments on the IRFA that it published in connection with the proposal. In addition, the Chief Counsel for Advocacy of the SBA did not file any comments in response to the proposal. Accordingly, no changes were made to the proposal as a result of RFA-related comments.

3. Description and estimate of the number of entities to which the rule will apply.

The rule applies to state member banks, bank holding companies, and savings and loan holding companies having their principal offices in the United States. Under regulations issued by the SBA, a small entity includes a state member bank, bank holding company, or savings and loan holding company with total assets of $600 million or less and trust companies with

[29] 5 U.S.C. 601 *et seq.*

[30] U.S. SBA, Table of Small Business Size Standards Matched to North American Industry Classification System Codes, available at *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

[31] *See* 13 CFR 121.201.

[32] The OCC bases its estimate of the number of small entities on the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are $600 million and $41.5 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), the OCC counts the assets of affiliated financial institutions when determining if it should classify an OCC-supervised institution as a small entity. The OCC uses December 31, 2018, to determine size because a ''financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See footnote 8 of the U.S. Small Business Administration's *Table of Size Standards.*

[33] 5 U.S.C. 603.

[34] 84 FR 604 (Jan. 31, 2019).

[35] 12 CFR 212.2 and 231.92.

[36] 12 U.S.C. 3207(2).

total assets of $41.5 million or less.[37] On average since the second quarter of 2018, there were approximately 2,976 small bank holding companies, 133 small savings and loan holding companies, and 70 small state member banks. The rule increases the total asset level at which depository organizations and their affiliates become subject to the major assets prohibition from $1.5 billion and $2.5 billion to $10 billion and $10 billion, respectively.

4. Description of the projected reporting, recordkeeping, and other compliance requirements of the rule.

The changes to the major assets prohibition do not impose any new reporting, recordkeeping, and other compliance requirements.

5. Description of the steps take to minimize any significant economic impact on small entities.

Based on its analysis and for the reasons stated above, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

FDIC: The Regulatory Flexibility Act (RFA) generally requires that, in connection with a final rule, an agency prepare and make available for public comment a final regulatory flexibility analysis describing the impact of the rulemaking on small entities.[38] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will 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 less than or equal to $600 million.[39] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. The FDIC supervises 3,489 depository institutions,[40] of which 2,741 are defined as small banking entities by the terms of the RFA.[41]

The final rule only affects institutions with total consolidated assets between the current thresholds of $1.5 billion and $2.5 billion and the new threshold of $10 billion. Therefore, the final rule will likely affect zero small entities.

Accordingly, the FDIC believes that the final rule will not have a significant impact on a substantial number of small entities. For the reasons described above and pursuant to 5 U.S.C. 605(b), the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

E. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation). The final rule will relieve burden and will not impose any new mandates. Therefore, the OCC concludes that the proposed rule will not result in an expenditure of $100 million or more annually by state, local, and tribal governments or by the private sector.

F. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies received one comment that generally suggested that the agencies use clear language in this final rule. The agencies believe the final rule is presented in a simple and straightforward manner. Accordingly, the agencies are issuing the final rule without change.

G. The Congressional Review Act

Pursuant to the Congressional Review Act, the Office of Management and Budget's Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined at 5 U.S.C. 804(2).

List of Subjects

12 CFR Part 26

Antitrust, Banks, banking, Holding companies, Management official interlocks, National banks.

12 CFR Part 212

Antitrust, Banks, banking, Holding companies, Management official interlocks.

12 CFR Part 238

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

12 CFR Part 348

Antitrust, Banks, banking, Holding companies.

Authority and Issuance

For the reasons stated in the preamble, the OCC amends 12 CFR part 26, the Board amends 12 CFR parts 212 and 238, and the FDIC amends 12 CFR part 348 as follows:

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

PART 26—MANAGEMENT OFFICIAL INTERLOCKS

■ 1. The authority citation for part 26 continues to read as follows:

Authority: 12 U.S.C. 1, 93a, 1462a, 1463, 1464, 3201–3208, 5412(b)(2)(B).

■ 2. Section 26.3 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 26.3 Prohibitions.

* * * * *

(c) *Major assets.* A management official of a depository organization with total assets exceeding $10 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $10 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. * * *

Federal Reserve System

PART 212—MANAGEMENT OFFICIAL INTERLOCKS (REGULATION L)

■ 3. The authority citation for part 212 continues to read as follows:

Authority: 12 U.S.C. 3201–3208; 15 U.S.C. 19.

■ 4. Section 212.3 is amended by revising the first sentence of paragraph (c) to read as follows:

[37] *See* 13 CFR 121.201.

[38] 5 U.S.C. 601 *et seq.*

[39] The SBA defines a small banking organization as having $600 million or less in assets, where an organization'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 by 84 FR 34261, effective August 19, 2019). In its determination, the ''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.

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

[41] Call Report, December 31, 2018.

§ 212.3 Prohibitions.

* * * * *

(c) *Major assets.* A management official of a depository organization with total assets exceeding $10 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $10 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. * * *

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

■ 5. The authority citation for part 238 is revised to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1467a, 1468, 1813, 1817, 1829e, 1831i, 1972, 3201–3208; 15 U.S.C. 78*l*.

■ 6. Section 238.93 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 238.93 Prohibitions.

* * * * *

(c) *Major assets.* A management official of a depository organization with total assets exceeding $10 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $10 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. * * *

Federal Deposit Insurance Corporation

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

■ 7. The authority citation for part 348 continues to read as follows:

Authority: 12 U.S.C. 3207, 12 U.S.C. 1823(k).

■ 8. Section 348.3 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 348.3 Prohibitions.

* * * * *

(c) *Major assets.* A management official of a depository organization with total assets exceeding $10 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $10 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. * * *

Dated: October 1, 2019.

Joseph M. Otting,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, September 27, 2019.

Ann E. Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on August 20, 2019.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2019–21840 Filed 10–9–19; 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 46

[Docket ID OCC–2018–0035]

RIN 1557–AE55

Amendments to the Stress Testing Rule for National Banks and Federal Savings Associations

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Final rule.

SUMMARY: The OCC is adopting a final rule to amend the OCC's company-run stress testing requirements for national banks and Federal savings associations, consistent with section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Specifically, the final rule revises the minimum threshold for national banks and Federal savings associations to conduct stress tests from $10 billion to $250 billion, revises the frequency by which certain national banks and Federal savings associations will be required to conduct stress tests, and reduces the number of required stress testing scenarios from three to two.

DATES: This final rule is effective November 24, 2019.

FOR FURTHER INFORMATION CONTACT: Hein Bogaard, Lead Economic Expert, International Analysis and Banking Condition, (202) 649–5450; or Henry Barkhausen, Counsel, or Daniel Perez, Senior Attorney, (202) 649–5490, Chief Counsel's Office; or for persons who are deaf or hearing-impaired, TTY, (202) 649–5597; Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act),[1] as initially enacted, required a national bank or Federal savings association (FSA) (collectively, banks) with total consolidated assets of more than $10 billion to conduct an annual stress test. Section 165(i)(2)(B) required these banks to provide a report to the Office of the Comptroller of the Currency (OCC) at such time, in such form, and containing such information as the OCC may require.[2] In addition, section 165(i)(2)(C) required the OCC to issue regulations that establish methodologies for banks conducting their stress test and required the methodologies to include at least three different stress testing scenarios: ''baseline,'' ''adverse,'' and ''severely adverse.''[3]

In October 2012, the OCC published in the **Federal Register** its rule implementing the Dodd-Frank Act stress testing requirement (stress testing rule).[4] The OCC's stress testing rule established two subgroups for covered institutions—''$10 to $50 billion covered institutions'' and ''$50 billion or over covered institutions''—and subjected the two subgroups to different stress test requirements and deadlines for reporting and disclosures. In February 2018, the OCC published a second rulemaking to implement additional technical and conforming changes to the OCC's stress testing rule.[5]

The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), enacted on May 24, 2018, amends certain aspects of the company-run stress testing requirement in section 165(i)(2) of the Dodd-Frank Act.[6] Specifically, section 401 of EGRRCPA raises the minimum asset threshold for financial companies covered by the company-run stress testing requirement from $10 billion to $250 billion in total consolidated assets; revises the requirement that financial companies conduct stress tests on an ''annual'' basis and instead requires them to be ''periodic''; and no longer requires the OCC to provide an ''adverse'' stress-testing scenario, thus reducing the number of required stress test scenarios from three to two. The amendments made by section 401 of EGRRCPA

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[1] Public Law 111–203, 124 Stat. 1376 (2010), codified at 12 U.S.C. 5365.

[2] 12 U.S.C. 5365(i)(2)(B).

[3] 12 U.S.C. 5365(i)(2)(C).

[4] 77 FR 61238 (Oct. 9, 2012).

[5] 83 FR 7951 (Feb. 23, 2018).

[6] Public Law 115–174, 132 Stat. 1296–1368 (2018).