

**FEDERAL RESERVE SYSTEM****12 CFR Parts 217, 225, 238, 242, and 252**

[Regulations Q, Y, LL, PP, and YY; Docket No. R-1658]

RIN 7100-AF 45

**Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations****AGENCY:** Board of Governors of the Federal Reserve System (Board).**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is adopting a final rule that establishes risk-based categories for determining prudential standards for large U.S. banking organizations and foreign banking organizations, consistent with section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), and with the Home Owners' Loan Act. The final rule amends certain prudential standards, including standards relating to liquidity, risk management, stress testing, and single-counterparty credit limits, to reflect the risk profile of banking organizations under each category; applies prudential standards to certain large savings and loan holding companies using the same categories; makes corresponding changes to reporting forms; and makes additional modifications to the Board's company-run stress test and supervisory stress test rules, consistent with section 401 of EGRRCPA. Separately, the Office of the Comptroller of the Currency (OCC), the Board, and the Federal Deposit Insurance Corporation (FDIC) are adopting a final rule that revises the criteria for determining the applicability of regulatory capital and standardized liquidity requirements for large U.S. banking organizations and the U.S. intermediate holding companies of foreign banking organizations, using a risk-based category framework that is consistent with the framework described in this final rule. In addition, the Board and the FDIC are separately adopting a final rule that amends the resolution planning requirements under section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act using a risk-based category framework that is consistent with the framework described in this final rule.

**DATES:** The final rule is effective December 31, 2019.**FOR FURTHER INFORMATION CONTACT:**

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**I. Introduction**

In 2018 and 2019, the Board of Governors of the Federal Reserve System (Board) sought comment on two separate proposals to revise the framework for determining application of prudential standards to large banking organizations. First, on October 31, 2018, the Board sought comment on a proposal to revise the criteria for determining the application of prudential standards for U.S. banking organizations with \$100 billion or more in total consolidated assets (domestic proposal).<sup>1</sup> Then, on April 8, 2019, the Board sought comment on a proposal to revise the criteria for determining the application of prudential standards for foreign banking organizations with total consolidated assets of \$100 billion or more (foreign bank proposal, and, together with the domestic proposal, the proposals).<sup>2</sup>

<sup>1</sup> See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181031a.htm>; Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies, 83 FR 61408 (Nov. 29, 2018).

<sup>2</sup> See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190408a.htm>; Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies, 84 FR 21988 (May 15, 2019). Foreign banking organization means a foreign bank that operates a branch, agency, or commercial lending company subsidiary

The Board is finalizing the framework set forth under the proposals, with certain adjustments.<sup>3</sup> Specifically, the final rule revises the thresholds for application of prudential standards to large banking organizations and tailors the stringency of these standards based on the risk profiles of these firms. For U.S. banking organizations with \$100 billion or more in total consolidated assets and foreign banking organizations with \$100 billion or more in combined U.S. assets, the final rule establishes four categories of prudential standards. The most stringent set of standards (Category I) applies to U.S. global systemically important bank holding companies (U.S. GSIBs) based on the methodology in the Board's GSIB surcharge rule.<sup>4</sup> The remaining categories of standards apply to U.S. and foreign banking organizations based on indicators of a firm's size, cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure. The framework set forth in the final rule will be used throughout the Board's prudential standards framework for large banking organizations.

In connection with a proposal on which the Board sought comment in January 2019, and consistent with EGRRCPA, this final rule also revises the minimum asset threshold for state member banks to conduct stress tests, revises the frequency by which state member banks would be required to conduct stress tests, and removes the adverse scenario from the list of required scenarios in the Board's stress test rules. This final rule also makes conforming changes to the Board's Policy Statement on the Scenario Design Framework for Stress Testing.<sup>5</sup>

in the United States; controls a bank in the United States; or controls an Edge corporation acquired after March 5, 1987; and any company of which the foreign bank is a subsidiary. See 12 CFR 211.21(o); 12 CFR 252.2. An agency is place of business of a foreign bank, located in any state, at which credit balances are maintained, checks are paid, money is lent, or, to the extent not prohibited by state or federal law, deposits are accepted from a person or entity that is not a citizen or resident of the United States. A branch is a place of business of a foreign bank, located in any state, at which deposits are received and that is not an agency. See 12 CFR 211.21(b) and (e).

<sup>3</sup> On January 8, 2019, the Board also issued a proposal that would revise the stress testing requirements that were proposed in the domestic proposal for certain savings and loan holding companies. See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190108a.htm>; Regulations LL and YY; Amendments to the Company-Run and Supervisory Stress Test Rules, 84 FR 4002 (Feb. 19, 2019). This final rule adopts those proposed changes, with certain adjustments.

<sup>4</sup> 12 CFR 217.403.

<sup>5</sup> See 12 CFR part 252, appendix A. The proposals would have revised the scope of applicability of the capital plan rule to apply to U.S. bank holding

Concurrently with this final rule, the Board, with the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) (together, the agencies), is separately finalizing amendments to the agencies' regulatory capital rule and liquidity coverage ratio (LCR) rule, to introduce the same risk-based categories for tailoring standards (the interagency capital and liquidity final rule). The Board and FDIC are also finalizing changes to the resolution planning requirements (resolution plan final rule) that would adopt the same risk-based category framework.

## II. Background

The financial crisis revealed significant weaknesses in resiliency and risk management in the financial sector, and demonstrated how the failure or distress of large, leveraged, and interconnected financial companies, including foreign banking organizations, could pose a threat to U.S. financial stability. To address weaknesses in the banking sector that were evident in the financial crisis, the Board strengthened prudential standards for large U.S. and foreign banking organizations. These enhanced standards included capital planning requirements; supervisory and company-run stress testing; liquidity risk management, stress testing, and buffer requirements; and single-counterparty credit limits. The Board's enhanced standards also implemented section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which directed the Board to establish enhanced prudential standards for bank holding companies and foreign banking organizations with total consolidated assets of \$50 billion or more.<sup>6</sup>

The Board has calibrated the stringency of requirements based on the size and complexity of a banking organization. Regulatory capital requirements, such as the GSIB capital surcharge, advanced approaches capital requirements, enhanced supplementary

companies and U.S. intermediate holding companies with \$100 billion or more in assets. In addition, the proposals would have revised the definition of large and noncomplex bank holding company to mean banking organizations subject to Category IV standards. The Board received a number of comments about its capital requirements. While the Board intends separately to propose modifications at a future date to capital planning requirements to incorporate the proposed risk-based categories, the final rule revises the scope of applicability of the Board's capital plan rule to apply to U.S. bank holding companies and U.S. intermediate holding companies with \$100 billion or more in total assets. This final rule does not revise the definition of large and noncomplex bank holding company.

<sup>6</sup> 12 U.S.C. 5365.

leverage ratio standards for U.S. GSIBs,<sup>7</sup> as well as the requirements under the capital plan rule,<sup>8</sup> are examples of this tailoring.<sup>9</sup> For foreign banking organizations, the Board tailored enhanced standards based, in part, on the size and complexity of a foreign banking organization's activities in the United States. The standards applicable to foreign banking organizations with a more limited U.S. presence largely rely on compliance with comparable home-country standards applied at the consolidated foreign parent level. In comparison, a foreign banking organization with a significant U.S. presence is subject to enhanced prudential standards and supervisory expectations that generally apply to its combined U.S. operations.<sup>10</sup>

The Board regularly reviews its regulatory framework to update and streamline regulatory requirements based on its experience implementing the rules and consistent with the statutory provisions that motivated the rules. These efforts include assessing the impact of regulations as well as considering alternatives that achieve regulatory objectives while improving the simplicity, transparency, and efficiency of the regulatory regime. The final rule is the result of this practice and reflects amendments to section 165 of the Dodd-Frank Act made by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).<sup>11</sup>

Specifically, EGRRCPA amended section 165 of the Dodd-Frank Act by raising the threshold for general application of enhanced prudential standards. By taking into consideration a broader range of risk-based indicators and establishing four categories of standards, the final rule enhances the risk sensitivity and efficiency of the Board's regulatory framework. This approach better aligns the prudential standards applicable to large banking organizations with their risk profiles, taking into account the size and complexity of these banking organizations as well as their potential

<sup>7</sup> 12 CFR 217.11.

<sup>8</sup> 12 CFR 225.8.

<sup>9</sup> For example, prior to the adoption of this final rule, heightened capital requirements and full LCR requirements applied to firms with \$250 billion or more in total consolidated assets or \$10 billion or more in on-balance sheet foreign exposure, including the requirement to calculate regulatory capital requirements using internal models and meeting a minimum supplementary leverage ratio requirement.

<sup>10</sup> The combined U.S. operations of a foreign banking organization include any U.S. subsidiaries (including any U.S. intermediate holding company), U.S. branches, and U.S. agencies.

<sup>11</sup> Public Law 115-174, 132 Stat. 1296 (2018).

to pose systemic risk. The final rule also maintains the fundamental reforms of the post-crisis framework and supports large banking organizations' resilience.

### III. Overview of the Notices of Proposed Rulemaking and General Summary of Comments

As noted above, the Board sought comment on two separate proposals to establish a framework for determining the prudential standards that would apply to large banking organizations. Specifically, the proposals would have calibrated requirements for large banking organizations using four risk-based categories. Category I would have been based on the methodology in the Board's GSIB surcharge rule for identification of U.S. GSIBs, while Categories II through IV would have been based on measures of size and the levels of the following indicators: Cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure (together with size, the risk-based indicators). The applicable standards would have included supervisory and company-run stress testing; risk committee and risk management requirements; liquidity risk management, stress testing, and buffer requirements; and single-counterparty credit limits. Foreign banking organizations with \$100 billion or more in total consolidated assets that do not meet the thresholds for application of Category II, Category III, or Category IV standards due to their limited U.S. presence would have been subject to requirements that largely defer to compliance with similar home-country standards at the consolidated level, with the exception of certain risk-management standards.

The proposals would have applied to U.S. banking organizations, foreign banking organizations, and certain large savings and loan holding companies using the same categories, with some differences particular to foreign banking organizations. Specifically, while the foreign bank proposal was largely consistent with the domestic proposal, it would have included certain adjustments to reflect the unique structures through which foreign banking organizations operate in the United States. As Category I standards under the domestic proposal would have applied only to U.S. GSIBs, foreign banking organizations would have been subject to standards in Categories II, III, or IV. The foreign bank proposal based the requirements of Categories II, III, and IV on the risk profile of a foreign banking organization's combined U.S. operations or U.S. intermediate holding company, as measured by the level of

the same risk-based indicators as under the domestic proposal. However, in order to reflect the structural differences between foreign banking organizations' operations in the United States and domestic holding companies, the foreign bank proposal would have adjusted the measurement of cross-jurisdictional activity to exclude inter-affiliate liabilities and to recognize collateral in calculating inter-affiliate claims.

#### A. General Summary of Comments

The Board received approximately 50 comments on the proposals from U.S. and foreign banking organizations, public entities, public interest groups, private individuals, and other interested parties.<sup>12</sup> Many commenters supported the proposals as meaningfully tailoring prudential standards. A number of commenters, however, expressed the view that the proposed framework would not have sufficiently aligned the Board's prudential standards with the risk profile of a firm. For example, some commenters on the domestic proposal argued that banking organizations with total consolidated assets of less than \$250 billion that do not meet a separate indicator of risk should not be subject to any enhanced standards. Some commenters on both proposals argued that proposed Category II standards were too stringent given the risks indicated by a high level of cross-jurisdictional activity. By contrast, other commenters argued that the proposals would weaken the safety and soundness of large banking organizations and increase risks to U.S. financial stability.

In response to the foreign bank proposal, commenters generally argued that the framework remained too stringent for the risks posed by foreign banking organizations. These commenters also argued that the risk-based indicators would disproportionately and unfairly result in the application of more stringent requirements to foreign banking organizations and, as a result, could disrupt the efficient functioning of financial markets and have negative effects on the U.S. economy. A number of these commenters argued that all risk-based indicators should exclude transactions with affiliates. By contrast, other commenters criticized the foreign bank proposal for reducing the

stringency of standards and argued that the proposal understated the financial stability risks posed by foreign banking organizations.

While some commenters argued that the proposed changes went beyond the changes mandated by EGRRCPA, other commenters argued that the proposals did not fully implement EGRRCPA. In addition, several commenters argued that the proposal exceeded the Board's authority under section 165 of the Dodd-Frank Act, as amended by EGRRCPA, and that enhanced standards should not be included in Category IV standards or applied to savings and loan holding companies. Foreign banking organization commenters also argued that the proposals did not adequately take into consideration the principle of national treatment and equality of competitive opportunity, or the extent to which a foreign banking organization is subject on a consolidated basis to home country standards that are comparable to those that are applied to the firm in the United States. As discussed in this **SUPPLEMENTARY INFORMATION**, the final rule largely adopts the proposals, with certain adjustments in response to comments.

#### IV. Overview of Final Rule

The final rule establishes four categories to apply enhanced standards based on indicators designed to measure the risk profile of a banking organization.<sup>13</sup> The prudential standards are applicable to U.S. bank holding companies, certain savings and loan holding companies, and foreign banking organizations. For U.S. banking organizations and savings and loan holding companies that are not substantially engaged in insurance underwriting or commercial activities (covered savings and loan holding companies), these risk-based indicators are measured at the level of the top-tier holding company. For foreign banking organizations, these risk-based indicators are generally measured at the level of such firms' combined U.S. operations, except for supervisory and company-run stress testing requirements and certain single-counterparty credit limits, which are based on the risk profile of such firms' U.S. intermediate holding companies. In addition, as discussed in the interagency capital and liquidity final rule, regulatory capital and LCR requirements also are based on the risk profile of such firms' U.S. intermediate holding company.

<sup>12</sup> The Board received a number of comments that were not specifically responsive to the proposals. In particular, commenters recommended specific changes related to the Board's supervisory stress test scenarios and stress capital buffer proposal. These comments are not within the scope of this rulemaking, and therefore are not discussed separately in this **SUPPLEMENTARY INFORMATION**.

<sup>13</sup> The final rule also increases the threshold for general application of enhanced prudential standards from \$50 billion to \$100 billion in total consolidated assets.

Under the final rule, and unchanged from the domestic proposal, the most stringent prudential standards apply to U.S. GSIBs under Category I, as these banking organizations have the potential to pose the greatest risks to U.S. financial stability. Category I includes standards that reflect agreements reached by the Basel Committee on Banking Supervision (BCBS).<sup>14</sup> The existing post-financial crisis framework for U.S. GSIBs has resulted in significant gains in resiliency and risk management. The final rule accordingly maintains the most stringent standards for these firms. For example, U.S. GSIBs are subject to the GSIB capital surcharge and enhanced supplementary leverage ratio standards under the agencies' regulatory capital rule. U.S. GSIBs are also subject to the most stringent stress testing requirements, including annual company-run and supervisory stress testing requirements, as well as the most stringent liquidity standards, including liquidity risk management, stress testing and buffer requirements, as well as single-counterparty credit limits. U.S. GSIBs also will remain subject to the most comprehensive reporting requirements, including the FR Y-14 (capital assessments and stress testing) and daily FR 2052a (complex institution liquidity monitoring report) reporting requirements.

The second set of standards, Category II standards, apply to U.S. banking organizations and foreign banking organizations that have \$700 billion or more in total assets,<sup>15</sup> or \$75 billion or more in cross-jurisdictional activity, and

that do not meet the criteria for Category I. As a result, these standards apply to banking organizations that are very large or have significant international activity. In addition to being subject to current enhanced risk-management requirements, banking organizations subject to Category II standards are subject to annual supervisory stress testing and annual company-run stress testing requirements. These banking organizations also are subject to the FR Y-14 and daily FR 2052a reporting requirements and the most stringent liquidity risk management, stress testing, and buffer requirements. Category II standards also include single-counterparty credit limits.

The third set of standards, Category III standards, apply to U.S. banking organizations and foreign banking organizations that have \$250 billion or more in total assets, or \$75 billion or more in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure, and that do not meet the criteria for Category I or II. In addition to being subject to current enhanced risk management requirements, a banking organization subject to Category III standards is subject to annual supervisory stress testing. However, under Category III, a banking organization is required to publicly disclose company-run test results every other year, rather than on an annual basis. These banking organizations are subject to the existing FR Y-14 reporting requirements and the most stringent liquidity risk management, stress testing, and buffer requirements.

Under Category III standards, banking organizations are subject to daily or monthly FR 2052a reporting requirements, depending on their levels of weighted short-term wholesale funding. Category III standards also include single-counterparty credit limits.

The fourth category, Category IV standards, apply to U.S. banking organizations and foreign banking organizations that have at least \$100 billion in total assets and that do not meet the criteria for Category I, II, or III, as applicable. Category IV standards align with the scale and complexity of these banking organizations but are less stringent than Category I, II, or III standards, which reflects the lower risk profile of these banking organizations relative to other banking organizations with \$100 billion or more in total assets. For example, a banking organization subject to Category IV standards is subject to supervisory stress testing every other year, and is not required to conduct and publicly report the results of a company-run stress test. In addition, Category IV standards under the final rule continue to include enhanced liquidity standards, including liquidity risk management, stress testing and buffer requirements, but the final rule reduces the required minimum frequency of liquidity stress tests and granularity of certain liquidity risk-management requirements, commensurate with these firms' size and risk profile.

TABLE I—SCOPING CRITERIA FOR CATEGORIES OF PRUDENTIAL STANDARDS

Category	U.S. banking organizations †	Foreign banking organizations ‡
I .....	U.S. GSIBs .....	N/A.
II .....	\$700 billion or more in total assets; or \$75 billion or more in cross-jurisdictional activity; do not meet the criteria for Category I.	
III .....	\$250 billion or more in total assets; or \$75 billion or more in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure; do not meet the criteria for Category I or II.	
IV .....	\$100 billion or more in total assets; do not meet the criteria for Category I, II, or III.	

† For a U.S. banking organization, the applicable category of prudential requirements is measured at the level of the top-tier holding company.  
 ‡ For a foreign banking organization, the applicable category of prudential requirements is measured at the level of the combined U.S. operations or U.S. intermediate holding company of the foreign banking organization, depending on the particular standard.

**V. Tailoring Framework**

This section describes the framework for determining the application of

prudential standards under this final rule, including a discussion of comments received on the proposed

framework. The final rule largely establishes the framework set forth in the proposals and introduces four

<sup>14</sup> International standards reflect agreements reached by the BCBS as implemented in the United States through notice and comment rulemaking.

<sup>15</sup> Category I-IV standards apply to U.S. banking organizations with \$100 billion or more in total consolidated assets and foreign banking organizations with \$100 billion or more in combined U.S. assets. As discussed above, the risk-

based indicators are measured at the level of the top-tier holding company for U.S. banking organizations and at the level of combined U.S. operations or U.S. intermediate holding company for foreign banking organizations. Accordingly, for U.S. banking organizations, total assets means total consolidated assets. For foreign banking organizations, total assets means combined U.S.

assets or total consolidated assets of the U.S. intermediate holding company, as applicable. Foreign banking organizations with \$100 billion or more in total consolidated assets but with combined U.S. assets of less than \$100 billion are subject to less stringent standards than required under Category I-IV. See section X of this SUPPLEMENTARY INFORMATION.

categories of prudential standards based on certain indicators of risk.

#### *A. Indicators-Based Approach and the Alternative Scoring Methodology*

The proposals would have established four categories of prudential standards that would have applied to U.S. banking organizations with \$100 billion or more in total consolidated assets and three categories of prudential standards that would have applied to foreign banking organizations with \$100 billion or more in combined U.S. assets, based on the risk profile of their U.S. operations. The proposals generally would have relied on five risk-based indicators to determine a banking organization's applicable category of standards: Size, cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding. The proposals also sought comment on an alternative approach that would have used a single, comprehensive score based on the GSIB identification methodology, which is currently used to identify U.S. GSIBs and apply risk-based capital surcharges to these banking organizations (scoring methodology).<sup>16</sup> Under the alternative approach, a banking organization's size and score from the scoring methodology would have been used to determine which category of standards would apply to the banking organization.

Most commenters preferred the proposed indicators-based approach to the scoring methodology for determining the category of standards that would apply to large banking organizations. These commenters stated that the indicators-based approach would be more transparent, less complex, and more appropriate for applying categories of standards to banking organizations that are not U.S. GSIBs. Some commenters also asserted that if the Board used the scoring methodology, the Board should use only method 1. These commenters argued that method 2 would be inappropriate for determining applicable prudential standards on the basis that the denominators to method 2 are fixed, rather than being updated annually. Commenters also asserted that method 2 was calibrated specifically for U.S. GSIBs and, as a result, should not be used to determine prudential standards for other banking organizations.

<sup>16</sup> For more discussion relating to the scoring methodology, see the Board's final rule establishing the GSIB identification methodology. See Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (Aug. 14, 2015).

The final rule adopts the indicators-based approach for applying Category II, III, or IV standards to a banking organization, as this approach provides a simple framework that supports the objectives of risk sensitivity and transparency. Many of the risk-based indicators are used in the agencies' existing regulatory frameworks or are reported by banking organizations. By using indicators that exist or are reported by most banking organizations subject to the final rule, the indicators-based approach limits additional reporting requirements. The Board will continue to use the scoring methodology to apply Category I standards to a U.S. GSIB and its depository institution subsidiaries.<sup>17</sup>

#### *B. Dodd-Frank Act Statutory Framework*

The Board received a number of comments discussing the scope of the changes required by EGRRCPA and the Board's authority for implementing certain parts of the proposal. Some commenters argued that EGRRCPA did not require the Board to make any changes to prudential standards applied to bank holding companies and foreign banking organizations with \$100 billion or more in total consolidated assets. Conversely, other commenters argued that, in passing EGRRCPA, Congress intended for banking organizations with less than \$250 billion in total consolidated assets to be exempt from most enhanced prudential standards under section 165 of the Dodd-Frank Act. These commenters argued that the proposal was not consistent with the revised criteria for applying enhanced prudential standards to bank holding companies with between \$100 billion and \$250 billion in total consolidated assets provided under section 165(a)(2)(C) of the Dodd-Frank Act. Specifically, commenters argued that EGRRCPA does not permit the Board to apply enhanced prudential standards to a bank holding company with \$100 billion or more in total consolidated assets if the bank holding company does not meet a risk-based indicator other than size. Some commenters urged the Board to apply enhanced prudential standards on a case-by-case basis. Foreign banking organization commenters argued that the proposals did not give adequate regard to the principle of national treatment and equality of competitive opportunity. These commenters also argued that the proposals did not appropriately account

<sup>17</sup> See the interagency capital and liquidity final rule for application of Category I liquidity and capital standards to depository institution subsidiaries of U.S. GSIBs.

for home country standards applied to the foreign parent or the capacity of the foreign parent to serve as a source of strength during times of stress. To provide greater recognition of home country standards and parental support, foreign banking organization commenters asserted that standards applied to their U.S. operations should be discounted relative to the standards applied to U.S. banking organizations.

Section 401 of EGRRCPA amended section 165 of the Dodd-Frank Act by generally raising the minimum asset threshold for application of prudential standards under section 165 from \$50 billion in total consolidated assets to \$250 billion in total consolidated assets.<sup>18</sup> However, the Board is required to apply certain enhanced prudential standards to bank holding companies with less than \$250 billion in total consolidated assets. Specifically, the Board must conduct periodic supervisory stress tests of bank holding companies with total consolidated assets equal to or greater than \$100 billion and less than \$250 billion,<sup>19</sup> and must require publicly traded bank holding companies with \$50 billion or more in total consolidated assets to establish a risk committee.<sup>20</sup> In addition, section 165(a)(2)(C) of the Dodd-Frank Act authorizes the Board to apply enhanced prudential standards to bank holding companies with \$100 billion or more, but less than \$250 billion, in total consolidated assets, provided that the Board (1) determines that application of the prudential standard is appropriate to prevent or mitigate risks to the financial stability of the United States, or to promote the safety and soundness of a bank holding company or bank holding companies; and (2) takes into consideration a bank holding company's or bank holding companies' capital structure, riskiness, complexity, financial activities (including financial activities of subsidiaries), size, and any other risk-

<sup>18</sup> A bank holding company designated as a GSIB under the Board's GSIB surcharge rule is subject to section 165, regardless of its size. See EGRRCPA 401(f). The term bank holding company as used in section 165 of the Dodd-Frank Act includes a foreign bank or company treated as a bank holding company for purposes of the Bank Holding Company Act, pursuant to section 8(a) of the International Banking Act of 1978. See 12 U.S.C. 3106(a); 12 U.S.C. 5311(a)(1). See also EGRRCPA 401(g) (regarding the Board's authority to establish enhanced prudential standards for foreign banking organizations with total consolidated assets of \$100 billion or more).

<sup>19</sup> EGRRCPA 401(e). Pursuant to section 165(i)(1), the Board must conduct an annual stress test of bank holding companies described in section 165(a), and nonbank financial companies designated for supervision by the Board. 12 U.S.C. 5365(i)(1).

<sup>20</sup> 12 U.S.C. 5365(h)(2)(A).

related factors that the Board of Governors deems appropriate.<sup>21</sup> Section 165(a)(2)(C) permits the Board to apply any enhanced prudential standard or standards to an individual bank holding company and also permits the Board to apply enhanced prudential standards to a class of bank holding companies. Similarly, in tailoring the application of enhanced prudential standards, section 165 provides the Board with discretion in differentiating among companies on an individual basis or by category.<sup>22</sup> Finally, in applying section 165 to foreign banking organizations, the Dodd-Frank Act directs the Board to give due regard to the principle of national treatment and equality of competitive opportunity, and to take into account the extent to which the foreign banking organization is subject, on a consolidated basis, to home country standards that are comparable to those applied to financial companies in the United States.

The framework for application of enhanced prudential standards established in this final rule is consistent with section 165 of the Dodd-Frank Act, as amended by EGRRCPA. The framework takes into consideration banking organizations' risk profiles by applying prudential standards based on a banking organization's size, cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding. By evaluating the degree of each risk-based indicator's presence at various thresholds, the framework takes into account concentrations in various types of risk. As explained below, the risk-based indicators were selected to measure risks to both financial stability and safety and soundness, including a bank holding company or bank holding companies' capital structure, riskiness, complexity, and financial activities. Size is specifically mentioned in section 165(a)(2)(C)(ii). By establishing categories of standards that increase in stringency based on risk, the framework would ensure that the Board's prudential standards align with the risk profile of large banking organizations, supporting financial stability and promoting safety and soundness.

Category IV standards apply if a banking organization reaches an asset size threshold (\$100 billion or more, as identified in the statute) but does not meet the thresholds for the other risk-based indicators. Size, as discussed below in section V.C.1 of this

Supplementary Information, provides a measure of the extent to which stress at a banking organization's operations could be disruptive to U.S. markets and present significant risks to U.S. financial stability. Size also provides a measure of other types of risk, including managerial and operational complexity. The presence of one factor and absence of other factors suggests that prudential standards should apply to this group of banking organizations, but with reduced stringency to account for these organizations' reduced risk profiles. In addition, as discussed above, the Board must apply periodic supervisory stress testing and risk-committee requirements to institutions of this size.

Under the final rule, the standards applied to the U.S. operations of foreign banking organizations are consistent with the standards applicable to U.S. bank holding companies. The standards also take into account the extent to which a foreign banking organization is subject, on a consolidated basis, to home country standards that are comparable to those applied to financial companies in the United States. Specifically, the final rule would continue the Board's approach of tailoring the application of prudential standards to foreign banking organizations based on the foreign banking organization's U.S. risk profile. For a foreign banking organization with a smaller U.S. presence, the final rule would largely defer to the foreign banking organization's compliance with home-country capital and liquidity standards at the consolidated level, and impose certain risk-management requirements that are specific to the U.S. operations of a foreign banking organization. For foreign banking organizations with significant U.S. operations, the final rule would apply a framework that is consistent with the framework applied to U.S. banking organizations. By using consistent indicators of risk, the final rule facilitates a level playing field between foreign and U.S. banking organizations operating in the United States, in furtherance of the principle of national treatment and equality of competitive opportunity. Differences in the measurement of risk-based indicators and in the application of standards between foreign banking organizations and U.S. banking organizations takes into account structural differences in operation and organization of foreign banking organizations, as well as the standards to which the foreign banking organization on a consolidated basis may be subject. For example, the cross-jurisdictional activity indicator excludes

liabilities of the combined U.S. operations, or U.S. intermediate holding company, to non-U.S. affiliates, which recognizes the benefit of the foreign banking organization providing support to its U.S. operations.

Commenters also raised questions over the Board's legal authority to apply prudential standards to covered savings and loan holding companies. These comments are addressed in Section VIII of this Supplementary Information.

### C. Choice of Risk-Based Indicators

To determine the applicability of the Category II, III, or IV standards, the proposals considered a banking organization's level of five risk-based indicators: Size, cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure.

The Board received a number of comments on the choice of risk-based indicators and suggested modifications to the calculation of the indicators. Several commenters expressed the general view that the proposed risk-based indicators were poor measures of risk. A number of these commenters also asserted that the Board did not provide sufficient justification to support the proposed risk-based indicators, and requested that the Board provide additional explanation regarding its selection. Commenters also asserted that the framework should take into consideration additional risk-mitigating characteristics when measuring the proposed risk-based indicators. Several other commenters argued that the proposals are too complex and at odds with the stated objective of simplicity and burden reduction.

By considering the relative presence or absence of each risk-based indicator, the proposals would have provided a basis for assessing a banking organization's financial stability and safety and soundness risks. The risk-based indicators generally track measures already used in the Board's existing regulatory framework and that are already publicly reported by affected banking organizations.<sup>23</sup> Together with fixed, uniform thresholds, use of the

<sup>23</sup> Bank holding companies, covered savings and loan holding companies, and U.S. intermediate holding companies subject to this final rule already report the information required to determine size, weighted short-term wholesale funding, and off-balance sheet exposure on the Banking Organization Systemic Risk Report (FR Y-15). Such bank holding companies and covered savings and loan holding companies also currently report the information needed to calculate cross-jurisdictional activity on the FR Y-15. Nonbank assets are reported on the FR Y-9 LP. This information is publicly available.

<sup>21</sup> 12 U.S.C. 5365(a)(2)(C). Section 401(a) of EGRRCPA amended section 165 of the Dodd-Frank Act to add section 165(a)(2)(C).

<sup>22</sup> 12 U.S.C. 5365(a)(2)(A).

indicators supports the Board's objectives of transparency and efficiency, while providing for a framework that enhances the risk-sensitivity of the Board's enhanced prudential standards in a manner that continues to allow for comparability across banking organizations. Risk-mitigating factors, such as a banking organization's high-quality liquid assets and the presence of collateral to secure an exposure, are incorporated into the enhanced standards to which the banking organization is subject.

One commenter asserted that an analysis of the proposed risk-based indicators based on a measure of the expected capital shortfall of a banking organization in the event of a steep equity market decline (SRISK)<sup>24</sup> demonstrated that only the cross-jurisdictional activity and weighted short-term wholesale funding indicators were positively correlated with SRISK while the other indicators were not important drivers of a banking organization's SRISK measures. Because SRISK is conditioned on a steep decline in equity markets, it does not capture the probability of a financial crisis or an idiosyncratic failure of a large banking organization. In addition, SRISK does not directly capture other important aspects of systemic risk, such as a banking organization's interconnectedness with other financial market participants. For these reasons, SRISK alone is not a sufficient means of determining the risk-based indicators used in the tailoring framework.

Accordingly and as discussed below, the Board is adopting the risk-based indicators as proposed.

#### 1. Size

The proposals would have considered size in tailoring the application of enhanced standards to a domestic banking organization or the U.S. operations of a foreign banking organization.

Some commenters argued that the proposals placed too much reliance on size for determining the prudential standards applicable to large banking organizations. These commenters generally criticized the size indicator as not sufficiently risk sensitive and a poor measure of systemic and safety and soundness risk, and suggested using

risk-weighted assets, as determined under the regulatory capital rule, rather than total consolidated assets or combined U.S. assets, as applicable. Several commenters argued that the proposals did not adequately explain the relationship between size and safety and soundness risk, particularly risks associated with operational or control gaps.

Other commenters, however, supported the use of size as a measure of financial stability and safety and soundness risk. These commenters asserted that size serves as an indicator of credit provision that could be disrupted in times of stress, as well as the difficulties associated with the resolution of a large banking organization. These commenters also recommended placing additional emphasis on size for purposes of tailoring prudential standards, and expressed the view that the size indicator is less susceptible to manipulation through temporary adjustments at the end of a reporting period as compared to the other risk-based indicators.

Section 165 of the Dodd-Frank Act, as amended by EGRRCPA, establishes thresholds based on total consolidated assets.<sup>25</sup> Size is also among the factors that the Board must take into consideration in differentiating among banking organizations under section 165.<sup>26</sup> A banking organization's size provides a measure of the extent to which stress at its operations could be disruptive to U.S. markets and present significant risks to U.S. financial stability. A larger banking organization has a greater number of customers and counterparties that may be exposed to a risk of loss or suffer a disruption in the provision of services if the banking organization were to experience distress. In addition, size is an indicator of the extent to which asset fire sales by a banking organization could transmit distress to other market participants, given that a larger banking organization has more counterparties and more assets to sell. The failure of a large banking organization in the United States also

<sup>25</sup> See generally 12 U.S.C. 5635 and EGRRCPA section 401.

<sup>26</sup> EGRRCPA § 401(a)(1)(B)(i) (codified at 12 U.S.C. 5365(a)(2)(A)). The Board has also previously used size as a simple measure of a banking organization's potential systemic impact and risk, and have differentiated the stringency of capital and liquidity requirements based on total consolidated asset size. For example, prior to the adoption of this final rule, advanced approaches capital requirements, the supplementary leverage ratio, and the LCR requirement generally applied to banking organizations with total consolidated assets of \$250 billion or more or total consolidated on-balance sheet foreign exposure of \$10 billion or more.

may give rise to challenges that complicate the resolution process due to the size and diversity of its customer base and the number of counterparties that have exposure to the banking organization.

The complexities associated with size also can give rise to operational and control gaps that are a source of safety and soundness risk and could result in financial losses to a banking organization and adversely affect its customers. A larger banking organization operates on a larger scale, has a broader geographic scope, and generally will have more complex internal operations and business lines relative to a smaller banking organization. Growth of a banking organization, whether organic or through an acquisition, can require more robust risk management and development of enhanced systems or controls; for example, when managing the integration and maintenance of information technology platforms.

Size also can be a proxy for other measures of complexity, such as the amount of trading and available-for-sale securities, over-the-counter derivatives, and Level 3 assets.<sup>27</sup> Using Call Report data from the first quarter of 2005 to the first quarter of 2018, the correlation between a bank's total trading assets (a proxy of complexity) and its total assets (a proxy of size) is over 90 percent.<sup>28</sup> As was seen in the financial crisis, a more complex institution can be more opaque to the markets and may have difficulty managing its own risks, warranting stricter standards for both capital and liquidity.

Further, notwithstanding commenters' assertions that risk-weighted assets more appropriately capture risk, an approach that relies on risk-weighted assets as an indication of size would not align with the full scope of risks intended to be measured by the size indicator. Risk-weighted assets

<sup>27</sup> The FR Y-15 and the GSIB surcharge methodology include three indicators of complexity that are used to determine a banking organization's systemic importance for purposes of the GSIB surcharge rule: Notional amount of OTC derivatives, Level 3 assets, and trading and AFS securities. In the second quarter of 2019, the average complexity score of a U.S. GSIB was 104.7, the average complexity score of a banking organization with assets of greater than \$250 billion that is not a U.S. GSIB was 12.0, the average complexity score of a banking organization with assets of more than \$100 billion but less than \$250 billion was 3.5, and the average complexity score of a banking organization with assets of \$50 billion but less than \$100 billion was 0.4.

<sup>28</sup> See Amy G. Lorenc, and Jeffery Y. Zhang (2018) "The Differential Impact of Bank Size on Systemic Risk," *Finance and Economics Discussion Series 2018-066*. Washington: Board of Governors of the Federal Reserve System, available at: <https://doi.org/10.17016/FEDS.2018.066>.

<sup>24</sup> For the definition and measurement of SRISK, see Acharya, V., Engle, R. and Richardson, M., 2012. Capital shortfall: A new approach to ranking and regulating systemic risks. *American Economic Review*, 102(3), pp.59-64, and see Brownlees, Christian, and Robert F. Engle (2017). "SRISK: A conditional capital shortfall measure of systemic risk." *The Review of Financial Studies* 30.1 (2016): 48-79.

serve as an indication of credit risk and are not designed to capture the risks associated with managerial and operational complexity or the potential for distress at a large banking organization to cause widespread market disruptions.

Some commenters argued that the Board staff analysis cited in the proposals does not demonstrate that size is a useful indicator for determining the systemic importance of a banking organization.<sup>29</sup> Specifically, one commenter asserted that the Board staff analysis (1) uses a flawed measure of bank stress and (2) does not use robust standard errors or sufficiently control for additional macroeconomic factors that may contribute to a decline in economic activity. The Board staff paper employs the natural logarithm of deposits at failed banks as a proxy of bank stress. This choice was informed by Bernanke's 1983 article, which uses the level (namely, thousands of dollars) of deposits at failed banks to proxy bank stress.<sup>30</sup> The staff paper makes modifications to this stress proxy in order to account for the evolution of the banking sector over time. In contrast to Bernanke's study of a three-year period during the Great Depression, Board staff's analysis spans almost six decades. Expressing bank stress in levels (namely, trillions of dollars) would not account for the structural changes that have occurred in the banking sector and therefore would place a disproportionately greater weight on the bank failures that occurred during the 2008–2009 financial crisis. In addition to the analysis conducted by Board staff, other research has found evidence of a link between size and systemic risk.<sup>31</sup>

<sup>29</sup> As described in the proposals, relative to a smaller banking organization, the failure of a large banking organization is more likely to have a destabilizing effect on the economy, even if the two banking organizations are engaged in similar business lines. Board staff estimated that stress at a single large banking organization with an assumed \$100 billion in deposits would result in approximately a 107 percent decline in quarterly real U.S. GDP growth, whereas stress among five smaller banking organizations—each with an assumed \$20 billion in deposits—would collectively result in roughly a 22 percent decline in quarterly real U.S. GDP growth. Both scenarios assume \$100 billion in total deposits, but the negative impact is significantly greater when the larger banking organization fails. *Id.*

<sup>30</sup> Bernanke, Ben S. 1983. "Nonmonetary Effects of the Financial Crisis in the Propagation of the Great Depression." *The American Economic Review* Vol. 73, No. 3, pp. 257–276.

<sup>31</sup> See Bremus, Buck, Russ and Schnitzer, *Big Banks and Macroeconomic Outcomes: Theory and Cross-Country Evidence of Granularity*, *Journal of Money, Credit and Banking* (July 2018). Allen, Bali, and Tang construct a measure of systemic risk (CATFIN) and demonstrate that the CATFIN of both large and small banking organizations can forecast

For the reasons discussed above, the Board is adopting the proposed measure of size for foreign and domestic banking organizations without change. Size is a simple and transparent measure of systemic importance and safety and soundness risk that can be readily understood and measured by banking organizations and market participants.

## 2. Cross-Jurisdictional Activity

The proposals would have included a measure of cross-jurisdictional activity as a risk-based indicator to determine the application of Category II standards. For U.S. banking organizations, the domestic proposal defined cross-jurisdictional activity as the sum of cross-jurisdictional claims and liabilities. In recognition of the structural differences between foreign and domestic banking organizations, the foreign bank proposal would have adjusted the measurement of cross-jurisdictional activity for foreign banking organizations to exclude inter-affiliate liabilities and certain collateralized inter-affiliate claims.<sup>32</sup>

macroeconomic declines, and found that the CATFIN of large banks can successfully forecast lower economic activity sooner than that of small banks. See, Allen, Bali, and Tang, *Does Systemic Risk in the Financial Sector Predict Future Economic Downturns?*, *Review of Financial Studies*, Vol. 25, Issue 10 (2012). Adrian and Brunnermeier constructed a measurement of systemic risk, designated CoVar, and show that firms with higher leverage, more maturity mismatch, and larger size are associated with larger systemic risk contributions. Specifically, the authors find that if a bank is 10 percent larger than another bank, then the size coefficient predicts that the larger bank's CoVaR per unit of capital is 27 basis points higher than the smaller bank's CoVaR. See, Adrian & Brunnermeier, *CoVar*, *American Economic Review Journal*, Vol. 106 No. 7 (July 2016)

In the same vein, research conducted by the Bank for International Settlements suggests that the ratio of one institution's systemic importance to a smaller institution's systemic importance is larger than the ratio of the respective sizes. See Tarashev, Borio and Tsatsaronis, *Attributing systemic risk to individual institutions*, BIS Working Paper No. 308 (2010). Relatedly, Dávila and Walther (2017) show that large banks take on more leverage relative to small banks in times of stress and government bailouts. See Dávila & Walther, *Does Size Matter? Bailouts with Large and Small Banks*, NBER Working Paper No. 24132 (2017).

<sup>32</sup> Specifically, the proposal would have excluded from the cross-jurisdictional activity indicator all inter-affiliate claims of a foreign banking organization secured by financial collateral, in accordance with the capital rule. Financial collateral is defined under the capital rule to mean collateral, (1) in the form of (i) cash on deposit with the banking organization (including cash held for the banking organization by a third-party custodian or trustee), (ii) gold bullion, (iii) long-term debt securities that are not resecuritization exposures and that are investment grade, (v) short-term debt instruments that are not resecuritization exposures and that are investment grade, (v) equity securities that are publicly traded; (vi) convertible bonds that are publicly traded, or (vii) money market fund shares and other mutual fund shares if a price for the shares is publicly quoted daily; and (2) in which

Specifically, claims on affiliates<sup>33</sup> would be reduced by the value of any financial collateral in a manner consistent with the Board's capital rule,<sup>34</sup> which permits, for example, banking organizations to recognize financial collateral when measuring the exposure amount of repurchase agreements and securities borrowing and securities lending transactions (together, repo-style transactions).<sup>35</sup> The foreign bank proposal sought comment on alternative adjustments to the cross-jurisdictional activity indicator for foreign banking organizations, and on other modifications to the components of the indicator.

Some commenters urged the Board to adopt the cross-jurisdictional activity indicator as proposed. By contrast, a number of commenters expressed concern regarding this aspect of the proposals. Several commenters opposed the inclusion of cross-jurisdictional liabilities in the cross-jurisdictional activity indicator. Some commenters argued that cross-jurisdictional liabilities are not a meaningful indicator of systemic risk as measured by SRISK.<sup>36</sup> Other commenters asserted that cross-jurisdictional liabilities can reflect sound risk management practices on the basis that cross-jurisdictional liabilities can indicate a diversity of funding sources and may be used to fund assets in the same foreign jurisdiction as the liabilities. These commenters suggested modifying the indicator to exclude the amount of any central bank deposits, other high-quality liquid assets (HQLA), or assets that receive a zero percent risk weight under the capital rule if those assets are held in the same jurisdiction as a cross-jurisdictional liability.

A number of commenters suggested revisions to the cross-jurisdictional activity indicator that would exclude specific types of claims or liabilities. For example, some commenters asserted that the measure of cross-jurisdictional

the banking organization has a perfected, first-priority security interest or, outside of the United States, the legal equivalent thereof (with the exception of cash on deposit and notwithstanding the prior security interest of any custodial agent). See 12 CFR 217.2.

<sup>33</sup> For the combined U.S. operations, the measure of cross-jurisdictional activity would exclude all claims between the foreign banking organization's U.S. domiciled affiliates, branches, and agencies to the extent such items are not already eliminated in consolidation. For the U.S. intermediate holding company, the measure of cross-jurisdictional activity would eliminate through consolidation all intercompany claims within the U.S. intermediate holding company.

<sup>34</sup> See 12 CFR 217.37.

<sup>35</sup> See the definition of repo-style transaction at 12 CFR 217.2.

<sup>36</sup> See, *supra* note 25.



activity should exclude any claim secured by HQLA or highly liquid assets<sup>37</sup> based on the nature of the collateral. Another commenter suggested excluding operating payables arising in the normal course of business, such as merchant payables. Other commenters suggested that the indicator exclude exposures to U.S. entities or projects that have a foreign guarantee or foreign insurer, unless the U.S. direct counterparty does not meet an appropriate measure of creditworthiness. Some commenters stated that investments in co-issued collateralized loan obligations should be excluded from the measure of cross-jurisdictional activity.

Commenters also suggested specific modifications to exclude exposures to certain types of counterparties. For example, several commenters suggested excluding exposures to sovereign, supranational, international, or regional organizations. Commenters asserted that these exposures do not present the same interconnectivity concerns as exposures with other types of counterparties and that claims on these types of entities present little or no credit risk. Another commenter suggested excluding transactions between a U.S. intermediate holding company and any affiliated U.S. branches of its parent foreign banking organization on the basis that the foreign bank proposal could disadvantage foreign banking organizations relative to U.S. banking organizations that eliminate such inter-affiliate transactions in consolidation. Similarly, one commenter suggested excluding transactions between a U.S. intermediate holding company and any U.S. branch of a foreign banking organization, whether affiliated or not, on the basis that such exposures are geographically domestic. Another commenter argued that exposures denominated in a foreign banking organization's home currency should be excluded. By contrast, one commenter argued that cross-jurisdictional activity should be revised to include derivatives, arguing that derivatives can be used as a substitute for other cross-jurisdictional transactions and, as a result, could be used to avoid the cross-jurisdictional activity threshold.

A number of commenters provided other suggestions for modifying the cross-jurisdictional activity indicator. In particular, some commenters recommended that the cross-jurisdictional activity indicator permit netting of claims and liabilities with a counterparty, with only the net claim or

liability counting towards cross-jurisdictional activity. Several commenters suggested that the Board should consider excluding assets or transactions that satisfy another regulatory requirement. For example, these commenters argued that the Board should consider excluding transactions resulting in the purchase of or receipt of HQLA.

Other commenters suggested modifications to the criteria for determining when an exposure is considered cross-border. Specifically, commenters requested modifications to the calculation of cross-jurisdictional activity for claims supported by multiple guarantors or a combination of guarantors and collateral, for example, by not attributing the claim to the jurisdiction of the entity holding the claim, or collateral that bears the highest rating for reporting on an ultimate-risk basis. Commenters also requested that the Board presume that an exposure created through negotiations with agents or asset managers would generally create an exposure based in the jurisdiction of the location of the agent or manager for their undisclosed principal.

Foreign banking organization commenters generally supported the approach taken in the foreign bank proposal with respect to the treatment of inter-affiliate cross-jurisdictional liabilities, but stated that such an approach would not adequately address the differences between domestic and foreign banking organizations. These commenters urged the Board to eliminate the cross-jurisdictional activity indicator for foreign banking organizations or, alternatively, to eliminate all inter-affiliate transactions from measurement of the indicator.

Significant cross-border activity can indicate heightened interconnectivity and operational complexity. Cross-jurisdictional activity can add operational complexity in normal times and complicate the ability of a banking organization to undergo an orderly resolution in times of stress, generating both safety and soundness and financial stability risks. In addition, cross-jurisdictional activity may present increased challenges in resolution because there could be legal or regulatory restrictions that prevent the transfer of financial resources across borders where multiple jurisdictions and regulatory authorities are involved. Banking organizations with significant cross-jurisdictional activity may require more sophisticated risk management to appropriately address the complexity of those operations and the diversity of risks across all of the jurisdictions in

which the banking organization provides financial services. For example, banking organizations with significant cross-border activities may require more sophisticated risk management related to raising funds in foreign financial markets, accessing international payment and settlement systems, and obtaining contingent sources of liquidity. In addition, the application of consistent prudential standards to banking organizations with significant size or cross-jurisdictional activity helps to promote competitive equity in the United States as well as abroad.

Measuring cross-jurisdictional activity taking into account both assets and liabilities—instead of just assets—provides a broader gauge of the scale of cross-border operations and associated risks, as it includes both borrowing and lending activities outside of the United States.<sup>38</sup> While both borrowing and lending outside the United States may reflect prudent risk management, cross-jurisdictional activity of \$75 billion or more indicates a level of organizational complexity that warrants more stringent prudential standards. With respect to commenters' suggestion to exclude central bank deposits, HQLA, or assets that receive a zero percent risk weight in the same jurisdiction as a cross-jurisdictional liability, such an exclusion would assume that all local liabilities are used to fund local claims. However, because foreign affiliates rely on local funding to different extents, such an exclusion could understate risk.<sup>39</sup>

The cross-jurisdictional activity indicator and threshold is intended to identify banking organizations with significant cross-border activities. Significant cross-border activities indicate a complexity of operations, even if some of those activities are low risk. Excluding additional types of claims or liabilities would reduce the transparency and simplicity of the

<sup>38</sup> The BCBS recently amended its measurement of cross-border activity to more consistently reflect derivatives, and the Board anticipates it will separately propose changes to the FR Y-15 in a manner consistent with this change. Any related changes to the proposed cross-jurisdictional activity indicator would be updated through those separately proposed changes to the FR Y-15.

<sup>39</sup> Based on data collected from the Country Exposure Report (FFIEC 009), some affiliates of U.S. banking organizations relied extensively (75 percent) on local funding, while others collected almost no local funding. In particular, approximately 40 percent of bank-affiliate locations had no local lending. See Nicola Cetorelli & Linda Goldberg, "Liquidity Management of U.S. Global Banks: Internal Capital Markets In the Great Recession" (Fed. Reserve Bank of N.Y. Staff Report No. 511, 2012), available at [http://www.newyorkfed.org/research/staff\\_reports/sr511.pdf](http://www.newyorkfed.org/research/staff_reports/sr511.pdf).

<sup>37</sup> See 12 CFR part 252.35(b)(3)(i) and 252.157(c)(7)(i).

tailoring framework. In addition, excluding certain types of assets based on the credit risk presented by the counterparty would be inconsistent with the purpose of the indicator as a measure of operational complexity and risk. The measure of cross-jurisdictional activity in the final rule therefore does not exclude specific types of claims or liabilities, or claims and liabilities with specific types of counterparties, other than the proposed treatment of inter-affiliate liabilities and certain inter-affiliate claims.

The proposals requested comment on possible additional changes to the components of the cross-jurisdictional activity indicator to potentially provide more consistent treatment across repurchase agreements and other securities financing transactions and with respect to the recognition of collateral across types of transactions. Commenters were generally supportive of these additional changes. The proposals also requested comment on the most appropriate way in which the proposed cross-jurisdictional activity indicator could account for the risk of transactions with a delayed settlement date. Several commenters argued that the indicator should exclude trade-date receivables or permit the use settlement-date accounting in calculating the cross-jurisdictional activity indicator. Commenters also supported measuring securities lending agreements and repurchase agreements on an ultimate-risk basis, rather than allocating these exposures based on the residence of the counterparty.

The final rule adopts the cross-jurisdictional activity indicator as proposed. Under the final rule, cross-jurisdictional activity is measured based on the instructions to the FR Y-15 and, by reference, to the FFIEC 009.<sup>40</sup> The Board is considering whether additional technical modifications and refinements to the cross-jurisdictional indicator would be appropriate, including with respect to the treatment of derivatives, and would seek comment on any changes to the indicator through a separate notice. Specifically, cross-jurisdictional claims are measured according to the instructions to the FFIEC 009. The instructions to the

<sup>40</sup> Specifically, cross-jurisdictional claims are measured on an ultimate-risk basis according to the instructions to the FFIEC 009. The instructions to the FFIEC 009 currently do not permit risk transfer for repurchase agreements and securities financing transactions. Foreign banking organizations must include in cross-jurisdictional claims only the net exposure (*i.e.*, net of collateral value subject to haircuts) of all secured transactions with affiliates to the extent that these claims are collateralized by financial collateral or excluded in consolidation (*see supra* note 35).

FFIEC 009 currently do not permit risk transfer for repurchase agreements and securities financing transactions and the Board is not altering the measurement of repurchase agreements and securities financing transactions under this final rule. This approach maintains consistency between the FR Y-15 and FFIEC 009. In addition, the cross-jurisdictional indicator maintains the use of trade-date accounting for purposes of the final rule. The preference for trade-date accounting is consistent with other reporting forms (*e.g.*, Consolidated Financial Statements for Holding Companies (FR Y-9C)) and with generally accepted accounting principles. With respect to netting, the instructions to the FFIEC 009 permit netting in limited circumstances. Allowing banking organizations to net all claims and liabilities with a counterparty could significantly understate an organization's level of international activity, even if such netting might be appropriate from the perspective of managing risk.

As noted above, the risk-based indicators generally track measures already used in the Board's existing regulatory framework and rely on information that banking organizations covered by the final rule already publicly report.<sup>41</sup> The Board believes that the measure of cross-jurisdictional activity as proposed (including the current reported measurements of repurchase agreements and securities financing transactions, trade date accounting items, and netting) along with the associated \$75 billion threshold, appropriately captures the risks that warrant the application of Category II standards. The Board may consider future changes regarding the measurement of cross-jurisdictional activity indicator, and in doing so, would consider the comments described above and the impact of any future changes on the \$75 billion threshold, and would draw from supervisory experience following the implementation of the final rule. Any such changes would be considered in the context of a separate rulemaking process.

### 3. Nonbank Assets

The proposals would have considered the level of nonbank assets in determining the applicable category of standards for foreign and domestic banking organizations. The amount of a banking organization's activities conducted through nonbank subsidiaries provides a measure of the

<sup>41</sup> *See* Form FR Y-15. This information is publicly available.

organization's business and operational complexity. Specifically, banking organizations with significant activities in nonbank subsidiaries are more likely to have complex corporate structures and funding relationships. In addition, in certain cases nonbank subsidiaries are subject to less prudential regulation than regulated banking entities.

Under the proposals, nonbank assets would have been measured as the average amount of assets in consolidated nonbank subsidiaries and equity investments in unconsolidated nonbank subsidiaries.<sup>42</sup> The proposals would have excluded from this measure assets in a depository institution subsidiary, including a national bank, state member bank, state nonmember bank, federal savings association, federal savings bank, or state savings association subsidiary. The proposals also would have excluded assets of subsidiaries of these depository institutions, as well as assets held in each Edge or Agreement Corporation that is held through a bank subsidiary.<sup>43</sup>

A number of commenters argued that measuring nonbank assets based on the location of the assets in a nonbank subsidiary provides a poor measure of risk. Some commenters requested that the Board instead consider whether the assets relate to bank-permissible activities. Other commenters argued that activities conducted in nonbank subsidiaries can present less risk than banking activities. Specifically, some commenters argued that the proposed measure of nonbank assets was over-inclusive on the basis that many of the assets in nonbank subsidiaries would receive a zero percent risk weight under the Board's capital rule. In support of this position, commenters noted that retail brokerage firms often hold significant amounts of U.S. treasury securities.

<sup>42</sup> For a foreign banking organization, nonbank assets would have been measured as the average amount of assets in consolidated U.S. nonbank subsidiaries and equity investments in unconsolidated U.S. nonbank subsidiaries.

<sup>43</sup> As noted above, the Parent Company Only Financial Statements for Large Holding Companies (FR Y-9LP), Schedule PC-B, line item 17 is used to determine nonbank assets. For purposes of this item, nonbank companies exclude (i) all national banks, state member banks, state nonmember insured banks (including insured industrial banks), federal savings associations, federal savings banks, and thrift institutions (collectively for purposes of this item, "depository institutions") and (ii) except for an Edge or Agreement Corporation designated as "Nonbanking" in the box on the front page of the Consolidated Report of Condition and Income for Edge and Agreement Corporations (FR 2886b), any subsidiary of a depository institution (for purposes of this item, "depository institution subsidiary"). The revised FR Y-15 includes a line item that would automatically populate this information. *See* Section XV of this SUPPLEMENTARY INFORMATION.

Other commenters argued that the measure of nonbank assets is poorly developed and infrequently used and urged the Board to provide additional support for the inclusion of the indicator in the proposed framework. Specifically, commenters requested that the Board provide additional justification for nonbank assets as an indicator of complex corporate structures and funding relationships, as well as interconnectedness. A number of commenters argued that, to the extent the measure was intended to address risk in broker-dealer operations, it was unnecessary in light of existing supervision and regulation of broker-dealers and application of consolidated capital, stress testing, and risk-management requirements to the parent banking organization.

A number of commenters argued that, if retained, the nonbank assets indicator should be more risk-sensitive. Some commenters suggested excluding assets related to bank-permissible activities as well as certain types of nonbanking activities, such as retail brokerage activity. The commenter argued that, at a minimum, the nonbank assets indicator should exclude any nonbank subsidiary or asset that would be permissible for a bank to own. Other commenters suggested risk-weighting nonbank assets or deducting certain assets held by nonbank subsidiaries, such as on-balance sheet items that are deducted from regulatory capital under the capital rule (e.g., deferred tax assets and goodwill).

Both the organizational structure of a banking organization and the activities it conducts contribute to its complexity and risk profile. Banking organizations with significant investments in nonbank subsidiaries are more likely to have complex corporate structures, inter-affiliate transactions, and funding relationships.<sup>44</sup> A banking organization's complexity is positively correlated with the impact of the organization's failure or distress.<sup>45</sup>

Market participants typically evaluate the financial condition of a banking organization on a consolidated basis. Therefore, the distress or failure of a

nonbank subsidiary could be destabilizing to, and cause counterparties and creditors to lose confidence in, the banking organization as a whole. In addition, the distress or failure of banking organizations with significant nonbank assets has coincided with or increased the effects of significant disruptions to the stability of the U.S. financial system.<sup>46</sup>

Nonbank activities also may involve a broader range of risks than those associated with activities that are permissible for a depository institution to conduct directly and can increase interconnectedness with other financial firms, requiring sophisticated risk management and governance, including capital planning, stress testing, and liquidity risk management. For example, holding companies with significant nonbank assets are generally engaged in financial intermediation of a different nature (such as complex derivatives activities) than those typically conducted through a depository institution. If not adequately managed, the risks associated with nonbank activities could present significant safety and soundness concerns and increase financial stability risks. Nonbank assets also reflect the degree to which a banking organization may be engaged in activities through legal entities that are not subject to separate capital or liquidity requirements or to the direct regulation and supervision applicable to a regulated banking entity.

The nonbank assets indicator in the final rule provides a proxy for operational complexity and nonbanking activities without requiring banking organizations to track assets, income, or revenue based on whether a depository institution has the legal authority to hold such assets or conduct the related activities (legal authority). In addition, a depository institution's legal authority depends on the institution's charter and may be subject to additional interpretation over time.<sup>47</sup> A measure of nonbank assets based on legal authority would be costly and complex for banking organizations to implement, as they do not currently report this information based on legal authority. Defining nonbank assets based on the

type of entity that owns them, rather than legal authority, reflects the risks associated with organizational complexity and nonbanking activities without imposing additional reporting burden as a result of implementing the final rule or monitoring any future changes to legal authority. In addition, as noted above, the nonbank assets indicator is designed, in part, to identify activities that a banking organization conducts in subsidiaries that may be subject to less prudential regulation, which makes relevant whether the asset or activity is located in a bank or nonbank subsidiary.

Commenters' suggested modifications to exclude certain types of assets or entities, or to risk-weight nonbank assets, would not align with the full scope of risks intended to be measured by the indicator, including risks associated with operational and managerial complexity. As noted in the discussion of size above, risk weights are primarily designed to measure credit risk, and can underestimate operational and other risks. Further, because nonbank entities are permitted to conduct a wide range of complex activities, assets held by those entities, including those that receive a zero percent risk weight, may be held in connection with complex activities, such as certain prime brokerage or other trading activities. Finally, as noted above, the nonbank assets measure is a relatively simple and transparent measure of a banking organization's nonbank activities, and exclusion of specific assets based on risk could undermine the simplicity and transparency of the indicator. For these reasons, the Board is finalizing the nonbank assets indicator, including the measurement of the indicator, as proposed.

#### 4. Off-Balance Sheet Exposure

The proposals included off-balance sheet exposure as a risk-based indicator to complement the measure of size. Under the proposals, off-balance sheet exposure would have been measured as the difference between total exposure, calculated in accordance with the instructions to the FR Y-15 or equivalent reporting form, and total assets.<sup>48</sup> Total exposure includes off-balance sheet assets plus certain off-

<sup>48</sup>Total exposure would be reported for domestic holding companies on the FR Y-15, Schedule A, Line Item 5, and for foreign banking organizations' U.S. intermediate holding companies and combined U.S. operations on the FR Y-15, Schedule H, Line Item 5. Total off-balance sheet exposure would be reported as Line Item M5 on Schedules A and H.

<sup>44</sup> See "Evolution in Bank Complexity", Nicola Cetorelli, James McAndrews and James Traina, Federal Reserve Bank of New York Economic Policy Review (December 2014) (discussing acquisitions of nonbanking subsidiaries and cross-industry acquisitions as contributing to growth in organization complexity), available at <https://www.newyorkfed.org/medialibrary/media/research/ep/2014/1412cet2.pdf>.

<sup>45</sup> See 80 FR 49082 (August 14, 2015). See also BCBS, "Global systemically important banks: Updated assessment methodology and the higher loss absorbency requirement" (paragraph 25), available at <http://www.bis.org/publ/bcbs255.htm>.

<sup>46</sup> An example includes the near-failure of Wachovia Corporation, a financial holding company with \$162 billion in nonbank assets as of September 30, 2008.

<sup>47</sup> See, e.g., "OCC Releases Updated List of Permissible Activities for Nat'l Banks & Fed. Sav. Associations," OCC NR 17-121 (Oct. 13, 2017) ("The OCC may permit national banks and federal savings associations to conduct additional activities in the future"), available at <https://www.occ.treas.gov/publications/publications-by-type/other-publications-reports/pub-activities-permissible-for-nat-banks-fed-saving.pdf>.

balance sheet exposures, including derivative exposures and commitments.

A number of commenters argued that the proposed measure of off-balance sheet exposure was not sufficiently risk-sensitive. Specifically, these commenters argued that the exposures captured by the indicator were generally associated with low-risk activities or assets, such as securities lending activities. In addition, the commenters argued that the proposed measure could be harmful to economic activity by discouraging corporate financing through commitments and letters of credit. Commenters accordingly urged the Board to modify the proposed approach to measuring the risk of off-balance sheet exposures, for example, by using the combination of credit-conversion factors and risk weights applied under the Board's capital rule. Other commenters suggested that the Board exclude certain types of exposures from the indicator, such as letters of credit. Foreign banking organization commenters also argued that inter-affiliate transactions should be excluded from the measure, including any guarantee related to securities used to fund the foreign parent, and guarantees used to facilitate clearing of swaps and futures for affiliates that are not clearing members. With respect to guarantees used to facilitate clearing, commenters argued that these exposures are the result of mandatory clearing requirements and help support the central clearing objectives of the Dodd-Frank Act. Commenters expressed concern that including these exposures also could result in increased concentration of clearing through U.S. GSIBs. For the same reasons, commenters argued that potential future exposures associated with derivatives cleared by an affiliate also should be excluded from the measure of off-balance sheet exposure.

Off-balance sheet exposure complements the size indicator under the tailoring framework by taking into account additional risks that are not reflected in a banking organization's measure of on-balance sheet assets. This indicator provides a measure of the extent to which customers or counterparties may be exposed to a risk of loss or suffer a disruption in the provision of services stemming from off-balance sheet activities. In addition, off-balance sheet exposure can lead to significant future draws on liquidity, particularly in times of stress. For example, during stress conditions vulnerabilities at individual banking organizations may be exacerbated by calls on commitments and the need to post collateral on derivatives exposures.

The nature of these off-balance sheet risks for banking organizations of significant size and complexity can also lead to financial stability risk, as they can manifest rapidly and with less transparency and predictability to other market participants relative to on-balance sheet exposures.

Excluding certain off-balance sheet exposures would be inconsistent with the purpose of the indicator as a measure of the extent to which customers or counterparties may be exposed to a risk of loss or suffer a disruption in the provision of services. Commitments and letters of credit, like extensions of credit through loans and other arrangements included on a banking organization's balance sheet, help support economic activity. Because corporations tend to increase their reliance on committed credit lines during periods of stress in the financial system, draws on these instruments can exacerbate the effects of stress conditions on banking organizations by increasing their on-balance sheet credit exposure.<sup>49</sup> During the 2008–2009 financial crisis, reliance on lines of credit was particularly pronounced among smaller and non-investment grade corporations, suggesting that an increase in these exposures may be associated with decreasing credit quality.<sup>50</sup>

Including guarantees to affiliates related to cleared derivative transactions in off-balance sheet exposure also is consistent with the overall purpose of the indicators. A clearing member that guarantees the performance of a clearing member client to a central counterparty is exposed to a risk of loss if the clearing member client were to fail to perform its obligations under a derivative contract. By including these exposures, the indicator identifies a source of interconnectedness with other financial market participants. These transactions can arise with respect not only to

<sup>49</sup> During the financial crisis, increased reliance on credit lines began as early as 2007, and increased after September 2008. See Jose M. Berrospide, Ralf R. Meisenzahl, and Briana D. Sullivan, "Credit Line Use and Availability in the Financial Crisis: The Importance of Hedging," available at: <https://www.federalreserve.gov/pubs/feds/2012/201227/201227pap.pdf>. Some have found evidence that an increase in draws on credit lines may have been motivated by concerns about the ability of financial institutions to provide credit in the future. See Victoria Ivashina & David Scharfstein, "Bank Lending During the Financial Crisis of 2008," 97 J. Fin. Econ. 319–338 (2010). See also, William F. Bassett, Simon Gilchrist, Gretchen C. Weinbach, and Egon Zakrajsek, "Improving Our Ability to Monitor Bank Lending" chapter on *Risk Topography: Systemic Risk and Macro Modeling* (2014), Markus Brunnermeier and Arvind Krishnamurthy, ed., pp. 149–161, available at: <http://www.nber.org/chapters/c12554>.

<sup>50</sup> *Id.*

principal trades, but also because a client wishes to face a particular part of the organization, and thus excluding these guarantees could insufficiently measure risk and interconnectedness.<sup>51</sup>

As described above, the tailoring framework's risk-based indicators and uniform category thresholds balance risk-sensitivity with simplicity and transparency. Excluding certain types of exposures would not align with the full scope of risks intended to be measured by the indicator. The final rule, therefore, adopts the off-balance sheet exposure indicator as proposed.

##### 5. Weighted Short-Term Wholesale Funding

The proposed weighted short-term wholesale funding indicator would have measured the amount of a banking organization's short-term funding obtained generally from wholesale counterparties. Reliance on short-term, generally uninsured funding from more sophisticated counterparties can make a banking organization more vulnerable to large-scale funding runs, generating both safety and soundness and financial stability risks. The proposals would have calculated this indicator as the weighted-average amount of funding obtained from wholesale counterparties, certain brokered deposits, and certain sweep deposits with a remaining maturity of one year or less, in the same manner as currently reported by holding companies on the FR Y–15.<sup>52</sup>

A number of commenters expressed concern regarding the use of the weighted short-term wholesale funding indicator in the tailoring framework. Several commenters argued that this indicator fails to take into account the extent to which the risk of short-term wholesale funding has been mitigated through existing regulatory requirements, such as the Board's enhanced prudential standards rule and, for foreign banking organizations, standardized liquidity requirements applicable to foreign banking organizations at the global consolidated level. Other commenters argued that the indicator is a poor measure of risk more

<sup>51</sup> In order to facilitate clearing generally, the capital rule more specifically addresses the counterparty credit risk associated with transactions that facilitate client clearing, such as a shorter margin period of risk, and provides incentives that are intended to help promote the central clearing objectives of the Dodd-Frank Act. See 12 CFR 217.35.

<sup>52</sup> Average amounts over a 12 month period in each category of short-term wholesale funding are weighted based on four residual maturity buckets; the asset class of collateral, if any, securing the funding; and liquidity characteristics of the counterparty. Weightings reflect risk of runs and attendant fire sales. See 12 CFR 217.406 and 80 FR 49082 (August 14, 2015).

broadly because it fails to consider the maturity of assets funded by short-term wholesale funding. Commenters argued that focusing on liabilities and failing to recognize the types of assets funded by the short-term funding would disproportionately affect foreign banking organizations' capital market activities and ability to compete in the United States.

The weighted short-term wholesale funding indicator is designed to serve as a broad measure of the risks associated with elevated, ongoing reliance on funding sources that are typically less stable than funding of a longer term or funding such as fully insured retail deposits, long-term debt, and equity. For example, a banking organization's weighted short-term wholesale funding level serves as an indication of the likelihood of funding disruptions in firm-specific or market-wide stress conditions. These funding disruptions may give rise to urgent liquidity needs and unexpected losses, which warrant heightened application of liquidity and regulatory capital requirements. A measure of funding dependency that reflects the various types or maturities of assets supported by short-term wholesale funding sources, as suggested by commenters, would add complexity to the indicator. For example, because a banking organization's funding is fungible, monitoring the relationship between specific liabilities and assets with various maturities is complex and imprecise. The LCR rule and the proposed net stable funding ratio (NSFR) rule therefore include methodologies for reflecting asset maturity in regulatory requirements that address the associated risks.<sup>53</sup>

Commenters suggested revisions to the weighted short-term wholesale funding indicator that would align with the treatment of certain assets and liabilities under the LCR rule. For example, some commenters recommended that the Board more closely align the indicator's measurement of weighted short-term wholesale funding with the outflow rates applied in the LCR rule, such as by excluding from the indicator funding that receives a zero percent outflow in the LCR rule or reducing the weights for secured funding to match the LCR rule's outflow treatment. Similarly, commenters suggested that the Board provide a lower weighting for brokered and sweep deposits from affiliates, consistent with the lower outflow rates

assigned to these deposits in the LCR rule. Specifically, commenters argued that the weighted short-term wholesale funding indicator inappropriately applies the same 25 percent weight to sweep deposits sourced by both affiliates and non-affiliates alike and treats certain non-brokered sweep deposits in a manner inconsistent with the LCR rule.

The Board notes that when it established the weights applied in calculating and reporting short-term wholesale funding for purposes of the GSIB surcharge rule, the Board took into account the treatment of certain liabilities in the LCR rule, including comments received in connection with that rulemaking, and fire sale risks in key short-term wholesale funding markets. At that time, the Board noted that the LCR rule does not fully address the systemic risks of certain types and maturities of funding.<sup>54</sup> The Board continues to believe the current scope of the weighted short-term wholesale funding indicator, and the weights applied in the indicator, are appropriately calibrated for assessing the risk to broader financial stability as a result of a banking organization's reliance on short-term wholesale funding. The final rule treats brokered deposits as short-term wholesale funding because they are generally considered less stable than standard retail deposits. In order to preserve the relative simplicity of the short-term wholesale funding metric, the final rule does not distinguish between different types of brokered deposits and sweep deposits. Accordingly, all retail deposits identified as brokered deposits and brokered sweep deposits under the LCR rule are reported on the FR Y-15 as retail brokered deposits and sweeps for purpose of the weighted short-term wholesale funding indicator.

Commenters also suggested other specific revisions to the calculation of the weighted short-term wholesale funding indicator. Some commenters argued that the weighted short-term wholesale funding indicator should look to the original maturity of the funding relationship—instead of the remaining maturity—and exclude long-term debt that is maturing within the next year. Commenters also urged the Board to recognize certain offsets to reduce the amount of short-term wholesale funding included in the indicator. For example, a number of commenters suggested that

the amount of short-term wholesale funding should be reduced by the amounts of HQLA held by the banking organization, cash deposited at the Federal Reserve by the banking organization, or any high-quality collateral used for secured funding. Commenters argued that this approach would better reflect the banking organization's liquidity risk because it would take into account assets that could be used to meet cash outflows as well as collateral that typically maintains its value and therefore would not contribute to asset fire sales. Commenters also argued that the measure of weighted short-term wholesale funding should exclude funding that the commenters viewed as stable, such as credit lines from Federal Home Loan Banks and Federal Reserve Banks, savings and checking accounts of wholesale customers, and brokered sweep deposits received from an affiliate.

The Board believes that the remaining maturity of a funding relationship, instead of original maturity as suggested by commenters, provides a more accurate measure of the banking organization's ongoing exposure to rollover risk. As discussed above, because a banking organization's inability to rollover funding may generate safety and soundness and financial stability risks, the Board believes that using remaining maturity is more appropriate given the purposes of the weighted short-term wholesale funding indicator. Further, the weighted short-term wholesale funding indicator takes into account the quality of collateral used in funding transactions by assigning different weights to average amounts of secured funding depending on its collateral. These weights reflect the liquidity characteristics of the collateral and the extent to which the quality of such assets may mitigate fire sale risk. Revising the weighted short-term wholesale funding indicator to permit certain assets to offset liabilities because the assets may be used to address cash outflows, as suggested by commenters, could understate financial stability and safety and soundness risks because such an approach assumes those assets are available to offset funding needs in stress conditions. Further, the indicator measures average short-term funding dependency over the prior 12 months, and a banking organization's current holdings of liquid assets may not address the financial stability and safety and soundness risks associated with its ongoing funding structure. Similarly, excluding a banking organization's general reliance

<sup>53</sup> For example, the LCR rule includes cash inflows from certain maturing assets and the proposed NSFR rule would use the maturity profile of a banking organization's assets to determine its required stable funding amount.

<sup>54</sup> For example, the LCR rule generally does not address maturities beyond 30 calendar days and offsets outflows from certain short-term funding transactions with inflows from certain short-term claims, which may not fully address the risk of asset fire sales.

on certain types of short-term funding from the indicator may result in an underestimation of a banking organization's potential to contribute to systemic risk because such funding may be unavailable for use in a time of stress. Thus, the final rule does not exclude short-term borrowing from the Federal Home Loan Banks, which may be secured by a broad range of collateral, and the final rule treats such short-term borrowing the same as borrowing from other wholesale counterparties in order to identify risk. More generally, incorporating commenters' recommended exclusions and offsets would reduce the transparency of the weighted short-term wholesale funding indicator, contrary to the Board's intention to provide a simplified measure to identify banking organizations with heightened risks. For these reasons, the final rule adopts the weighted short-term wholesale funding indicator without change.

Commenters also provided suggestions to reduce or eliminate inter-affiliate transactions from the measure of weighted short-term wholesale funding. Specifically, commenters provided suggestions to weight inter-affiliate transactions or net transactions with affiliates.

Including funding from affiliated sources provides an appropriate measure of the risks associated with a banking organization's general reliance on short-term wholesale funding. Banking organizations that generally rely on funding with a shorter contractual maturity from financial sector affiliates may present higher risks relative to those that generally rely on funding with a longer contractual term from outside of the financial sector. While funding relationships with affiliates may provide a banking organization with additional flexibility in the normal course of business, ongoing reliance on contractually short-term funding from affiliates may present risks that are similar to funding from nonaffiliated sources.

For the reasons discussed above, the final rule adopts the weighted short-term wholesale funding indicator as proposed.

#### *D. Application of Standards Based on the Proposed Risk-Based Indicators*

The proposed risk-based indicators would have determined the application of enhanced standards under Categories II, III, and IV. By taking into consideration the relative presence or absence of each risk-based indicator, the proposals would have provided a basis for assessing a banking organization's financial stability and safety and

soundness risks for purposes of determining the applicability and stringency of these requirements.

Commenters criticized the methods by which the proposed risk-based indicators would determine the category of standards applicable to a banking organization. Certain commenters expressed concern that a banking organization could become subject to Category II or III standards without first being subject to Category IV standards, due to the disjunctive use of the size and other risk-based indicators under the proposals. One commenter suggested that the Board should instead apply a category of standards based on a weighted average of the risk-based indicators. Another commenter suggested that application of Category II standards should be based on other risk factors that they asserted are more relevant to the determination of whether a banking organization has a risk profile that would warrant Category II standards. Several commenters suggested that the application of standardized liquidity requirements should be based only on the levels of the weighted short-term wholesale funding indicator, and not based on the levels of any other risk-based indicator. One commenter criticized the proposals for not providing sufficient justification for the number of categories.

Because each indicator serves as a proxy for various types of risk, a high level in a single indicator warrants the application of more stringent standards to mitigate those risks and support the overall purposes of each category. The Board therefore does not believe using a weighted average of a banking organization's levels in the risk-based indicators, or the methods that would require a banking organization to exceed multiple risk-based indicators, is appropriate to determine the applicable category of standards. The final rule therefore adopts the use of the risk-based indicators, generally as proposed.

Certain commenters suggested that the Board reduce requirements under the foreign bank proposal to account for the application of standards at the foreign banking organization parent. The final rule takes into account the standards that already apply to the foreign banking organization parent. Specifically, the final rule tailors the application of enhanced standards based, in part, on the size and complexity of a foreign banking organization's activities in the United States. The standards applicable to foreign banking organizations with a more limited U.S. presence largely rely on compliance with comparable home-country standards applied at the

consolidated foreign parent level. In this way, the final rule helps to mitigate the risk such banking organizations present to safety and soundness and U.S. financial stability, consistent with the overall objectives of the tailoring framework. Requiring foreign banking organizations to maintain financial resources in the jurisdictions in which they operate subsidiaries also reflects existing agreements reached by the BCBS and international regulatory practice.

#### *E. Calibration of Thresholds and Indexing*

The proposals would have employed fixed nominal thresholds to assign the categories of standards that apply to banking organizations. In particular, the proposals included total asset thresholds of \$100 billion, \$250 billion, and \$700 billion, along with \$75 billion thresholds for each of the other risk-based indicators. The foreign bank proposal also included a \$50 billion weighted short-term wholesale funding threshold for U.S. and foreign banking organizations subject to Category IV standards.

Some commenters expressed concerns regarding the use of \$75 billion thresholds for cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure. In particular, these commenters stated that the \$75 billion thresholds were poorly justified and requested additional information as to why the Board chose these thresholds. A number of these commenters also supported the use of a higher threshold for these indicators. Other commenters urged the Board to retain the discretion to adjust the thresholds on a case-by-case basis, such as in the case of a temporary excess driven by customer transactions or for certain transactions that would result in a sudden change in categorization.

The \$75 billion thresholds are based on the degree of concentration of a particular risk-based indicator for each banking organization relative to total assets. That is, a threshold of \$75 billion represents at least 30 percent and as much as 75 percent of total assets for banking organizations with between \$100 billion and \$250 billion in total assets.<sup>55</sup> Thus, for banking organizations

<sup>55</sup> The \$100 billion and \$250 billion size thresholds are consistent with those set forth in section 165 of the Dodd-Frank Act, as amended by section 401 of EGRRCPA. Section 165 of the Dodd-Frank Act requires the application of enhanced prudential standards to bank holding companies and foreign banking organizations with \$250 billion or more in total consolidated assets. Section 165

that do not meet the size threshold for Category III standards, other risks represented by the risk-based indicators would be substantial, while banking organizations with \$75 billion in cross-jurisdictional activity have a substantial international footprint. In addition, setting the thresholds at \$75 billion ensures that banking organizations that account for the vast majority of the total amount of each risk-based indicator among banking organizations with \$100 billion or more in total assets are subject to prudential standards that account for the associated risks of these risk-based indicators, which facilitates consistent treatment of these risks across banking organizations. The use of a single threshold also supports the overall simplicity of the framework. Moreover, a framework that permits the Board to adjust thresholds on a temporary basis would not support the objectives of predictability and transparency.

One commenter stated that the Board should not use the \$700 billion size threshold as the basis for applying Category II standards, arguing that the Board had not provided sufficient justification for that threshold.

However, as noted in the proposals, historical examples suggest that the distress or failure of a banking organization of this size would have systemic impacts. For example, during the financial crisis significant losses at Wachovia Corporation, which had \$780 billion in total assets at the time of being acquired in distress, had a destabilizing effect on the financial system. The \$700 billion size threshold under Category II addresses the substantial risks that can arise from the activities and potential distress of very large banking organizations that are not U.S. GSIBs. Commenters did not request additional explanation regarding the \$100 billion and \$250 billion total asset thresholds. As noted above, these size thresholds are consistent with those set forth in section 165 of the Dodd-Frank Act, as amended by section 401 of EGRRCPA.

Several commenters requested that the Board index certain of the proposed thresholds based on changes in various measures, such as growth in domestic banking assets, inflation, gross domestic product growth or other measures of economic growth, or share of the indicator held by the banking organization in comparison to the amount of the indicator held in the

authorizes the Board to apply enhanced prudential standards to such banking organizations with assets between \$100 billion and \$250 billion, taking into consideration the firm's capital structure, riskiness, complexity, financial activities (including those of subsidiaries), size, and any other risk-related factors the Board deems appropriate. 12 U.S.C. 5365.

financial system. These commenters requested that the thresholds be automatically adjusted on an annual basis based on changes in the relevant index, by operation of a provision in the rule. Other commenters expressed concern that indexing can have procyclical effects.

As commenters noted, the \$100 billion and \$250 billion size thresholds prescribed in the Dodd-Frank Act, as amended by EGRRCPA, are fixed by statute.<sup>56</sup> Indexing the other thresholds would add complexity, a degree of uncertainty, and potential discontinuity to the framework. The Board acknowledges the thresholds should be reevaluated over time to ensure they appropriately reflect growth on a macroeconomic and industry-wide basis, as well as to continue to support the objectives of this rule. The Board plans to accomplish this by periodically reviewing the thresholds and proposing changes through the notice and comment process, rather than including an automatic adjustment of thresholds based on indexing.

#### F. The Risk-Based Categories

##### 1. Category I

Under the proposals, Category I standards would have applied to U.S. GSIBs, which are banking organizations that have a U.S. GSIB score of 130 or more under the scoring methodology.<sup>57</sup> Category I standards would have included the most stringent standards relative to those imposed under the other categories to reflect the heightened risks that banking organizations subject to Category I standards pose to U.S. financial stability. The requirements applicable to U.S. GSIBs would have largely remained unchanged from existing requirements.

The Board did not receive comments regarding the criteria for application of

<sup>56</sup> Section 165 of the Dodd-Frank Act does provide the Board with discretion to establish a minimum asset threshold above the statutory thresholds for some, but not all, enhanced prudential standards. However, the Board may only utilize this discretion pursuant to a recommendation by the Financial Stability Oversight Council in accordance with section 115 of the Dodd-Frank Act. This authority is not available for stress testing and risk committee requirements. 12 U.S.C. 5365(a)(2)(B).

<sup>57</sup> As noted above, the foreign bank proposal would not have applied Category I standards to the U.S. operations of foreign banking organizations because the Board's GSIB surcharge rule would not identify a foreign banking organization or a U.S. intermediate holding company as a U.S. GSIB. The foreign bank proposal sought comment on the advantages and disadvantages of applying standards that are more stringent than Category II standards to the U.S. operations of foreign banking organizations with a comparable risk profile to U.S. GSIBs. Several commenters expressed general opposition to such an approach.

Category I standards to U.S. GSIBs. Several commenters expressed concern regarding applying more stringent standards than Category II standards to foreign banking organizations, even if the risk profile of a foreign banking organization's U.S. operations were comparable to a U.S. GSIB. The final rule adopts the scoping criteria for Category I, and the prudential standards that apply under this category, as proposed.<sup>58</sup> U.S. GSIBs have the potential to pose the greatest risks to U.S. financial stability due to their systemic risk profile and, accordingly, should be subject to the most stringent prudential standards. The treatment for U.S. GSIBs aligns with international efforts to address the financial stability risks posed by the largest, most interconnected financial institutions. In 2011, the BCBS adopted a framework to identify global systemically important banking organizations and assess their systemic importance.<sup>59</sup> This framework generally applies to the global consolidated parent organization, and does not apply separately to subsidiaries and operations in host jurisdictions. Consistent with this approach, the U.S. operations of foreign banking organizations are not subject to Category I standards under the final rule. The Board will continue to monitor the systemic risk profiles of foreign banking organization's U.S. operations, and consider whether application of more stringent requirements is appropriate to address any increases in their size, complexity or overall systemic risk profile.

##### 2. Category II

The proposals would have applied Category II standards to banking organizations with \$700 billion in total assets or \$100 billion or more in total assets and \$75 billion or more in cross-jurisdictional activity. The proposals also sought comment on whether Category II standards should apply based on a banking organization's weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure, using a higher threshold than the \$75 billion threshold that would have applied for Category III standards.

Some commenters argued that cross-jurisdictional activity should be an indicator for Category III standards rather than Category II standards. Another commenter expressed concern

<sup>58</sup> Under the final rule, a U.S. banking organization that meets the criteria for Categories I, II, or III standards is required to calculate its method 1 GSIB score annually.

<sup>59</sup> See BCBS, "Global systemically important banks: Assessment methodology and the additional loss absorbency requirement" (November 4, 2011).

with expanding the criteria for Category II standards to include any of the other risk-based indicators used for purposes of Category III standards. Some commenters also argued that the proposed Category II standards were too stringent relative to the risks indicated by a high level of cross-jurisdictional activity or very large size. Other commenters argued that application of Category II standards to foreign banking organizations was unnecessary because these banking organizations are already subject to BCBS-based standards on a global, consolidated basis by their home-country regulators. Another commenter requested that the Board provide greater differentiation between Category I and Category II standards.

As discussed above, banking organizations that engage in significant cross-jurisdictional activity present complexities that support the application of more stringent standards relative to those that would apply under Category III. In addition, application of consistent prudential standards across jurisdictions to banking organizations with significant size or cross-jurisdictional activity helps to promote competitive equity among U.S. banking organizations and their foreign peers, while applying standards that appropriately reflect the risk profiles of banking organizations that meet the thresholds for Category III standards. As noted above, this approach is consistent with international regulatory practice.

Accordingly, and consistent with the proposal, the final rule applies Category II standards to banking organizations with \$700 billion in total consolidated assets or cross-jurisdictional activity of \$75 billion or more.

### 3. Category III

Under the proposals, Category III standards would have applied to banking organizations that are not subject to Category I or II standards and that have total assets of \$250 billion or more. They also would have applied to banking organizations with \$100 billion or more in total assets and \$75 billion or more in nonbank assets, weighted short-term wholesale funding, or off-balance-sheet exposure.

A number of commenters supported the proposed scoping criteria for Category III, as well as the standards that would have applied under this category. Several other commenters requested certain changes to the specific thresholds and indicators used to determine which banking organizations would have been subject to Category III standards, as well as the prudential standards that would have applied under this category. Comments

regarding the prudential standards that would have applied under Category III are discussed in section VI.C of this Supplementary Information.

The final rule generally adopts the scoping criteria for Category III, and the prudential standards that apply under this Category, as proposed.

### 4. Category IV

Under the proposals, Category IV standards would have applied to banking organizations with \$100 billion or more in total assets that do not meet the thresholds for any other category. A number of commenters argued that no heightened prudential standards should apply to banking organizations that meet the criteria for Category IV because such banking organizations are not as large or complex as banking organizations that would be subject to more stringent categories of standards under the proposals. Alternatively, these commenters suggested that the threshold for application of Category IV standards should be raised from \$100 billion to \$250 billion in total assets.<sup>60</sup> In contrast, one commenter argued that the Board should not reduce the requirements applicable to banking organizations that would be subject to Category IV until current requirements have been in effect for a full business cycle.

The final rule includes Category IV because banking organizations subject to this category of standards generally have greater scale and operational and managerial complexity relative to smaller banking organizations and, as a result, present heightened safety and soundness risks. In addition, the failure of one or more banking organizations subject to Category IV standards could have a more significant negative effect on economic growth and employment relative to the failure or distress of smaller banking organizations.<sup>61</sup> The final rule generally adopts the scoping criteria for Category IV, and the prudential standards that apply under this Category, as proposed.

#### *G. Specific Aspects of the Foreign Bank Proposal—Treatment of Inter-Affiliate Transactions*

Except for cross-jurisdictional activity, which would have excluded liabilities to and certain collateralized claims on non-U.S. affiliates, the proposed risk-based indicators would

<sup>60</sup> Commenters also argued that the Board had not sufficiently justified the application of enhanced prudential standards to firms subject to Category IV standards. These comments are addressed in section VI.D. of this SUPPLEMENTARY INFORMATION.

<sup>61</sup> See section V.C.1. of this SUPPLEMENTARY INFORMATION.

have included transactions between a foreign banking organization's combined U.S. operations and non-U.S. affiliates.<sup>62</sup> Similarly, and as noted above, except for cross-jurisdictional activity, a U.S. intermediate holding company would have included transactions with affiliates outside the U.S. intermediate holding company when reporting its risk-based indicators.

Most commenters on the foreign bank proposal supported the proposed exclusion of certain inter-affiliate transactions in the cross-jurisdictional activity indicator, and argued further that all risk-based indicators should exclude transactions with affiliates. These commenters asserted that including inter-affiliate transactions disadvantaged foreign banking organizations relative to U.S. peers and argued that the rationale for excluding certain inter-affiliate claims from the cross-jurisdictional activity measure applied equally to all other risk-based indicators. A number of commenters argued that including inter-affiliate transactions would overstate the risks to a foreign banking organization's U.S. operations or U.S. intermediate holding company because inter-affiliate transactions may be used to manage risks of the foreign banking organization's global operations. Similarly, some commenters asserted that the inclusion of inter-affiliate transactions was inconsistent with risks that the risk-based indicators are intended to capture. Other commenters argued that any risks associated with inter-affiliate transactions were appropriately managed through the supervisory process and existing regulatory requirements, and expressed concern that including inter-affiliate transactions could encourage ring fencing in other jurisdictions. Some commenters suggested that, if the Board does not exclude inter-affiliate transactions entirely, the Board should weight inter-affiliate transactions at no more than 50 percent. By contrast, one commenter argued that inter-affiliate transactions should be included in the risk-based indicators, arguing that the purpose of the Board's U.S. intermediate holding company framework is that resources located outside the organization may not be reliably available during periods of financial stress.

Tailoring standards based on the risk profile of the U.S. intermediate holding company or combined U.S. operations of a foreign banking organization, as applicable, requires measurement of risk-based indicators at a sub-

<sup>62</sup> See supra note 34.



consolidated level rather than at the global parent. As a result, calculation of the risk-based indicators must distinguish between such a banking organization's U.S. operations or U.S. intermediate holding company, as applicable, and affiliates outside of the United States, including by providing a treatment for inter-affiliate transactions that would otherwise be eliminated in consolidation at the global parent. Including inter-affiliate transactions in the calculation of risk-based indicators would mirror, as closely as possible, the risk profile of a U.S. intermediate holding company or combined U.S. operations if each were consolidated in the United States.

Including inter-affiliate transactions in the calculation of risk-based indicators is consistent with the Board's approach to measuring and applying standards at a sub-consolidated level in other contexts. For example, existing thresholds and requirements in the Board's Regulation YY are based on measures of a foreign banking organization's size in the United States that includes inter-affiliate transactions.<sup>63</sup> Similarly, the total consolidated assets of a U.S. intermediate holding company or depository institution include transactions with affiliates outside of the U.S. intermediate holding company.<sup>64</sup> Capital and liquidity requirements applied to U.S. intermediate holding companies and insured depository institutions generally do not distinguish between exposures with affiliates and third parties. For example, the LCR rule assigns outflow rates to funding according to the characteristics of the source of funding, but generally does not distinguish between funding provided by an affiliate or third party.<sup>65</sup> Excluding inter-affiliate transactions from off-balance sheet exposure, size, and weighted short-term wholesale funding indicators would be inconsistent with the treatment of these exposures under the capital and liquidity rules.

In some cases, the exclusion of inter-affiliate transactions would not align with the full scope of risks intended to be measured by an indicator. Inter-

affiliate positions can represent sources of risk—for example, claims on the resources of a foreign banking organization's U.S. operations.<sup>66</sup> As another example, short-term wholesale funding provided to a U.S. intermediate holding company by its parent foreign bank represents funding that the parent could withdraw quickly, which could leave fewer assets available for U.S. counterparties of the U.S. intermediate holding company.<sup>67</sup> By including inter-affiliate transactions in weighted short-term wholesale funding while excluding these positions from cross-jurisdictional liabilities, the framework provides a more risk-sensitive measure of funding risk from foreign affiliates as it takes into consideration the maturity and other risk characteristics of the funding for purposes of the weighted short-term wholesale funding measure. Additionally, because long-term affiliate funding (such as instruments used to meet total loss absorbing capacity requirements) would not be captured in weighted short-term wholesale funding, the indicator is designed to avoid discouraging a foreign parent from providing support to its U.S. operations.

Similarly, with respect to off-balance sheet exposure, an exclusion for inter-affiliate transactions would not account for the risks associated with any funding commitments provided by the U.S. operations of a foreign banking organization to non-U.S. affiliates. Accordingly, the Board believes it would be inappropriate to exclude inter-affiliate transactions from the measure of off-balance sheet exposure.

<sup>66</sup> Domestic banking organizations are required to establish and maintain procedures for monitoring risks associated with funding needs across significant legal entities, currencies, and business lines. *See, e.g.*, 12 CFR 252.34(h)(2).

<sup>67</sup> *See e.g.*, Robert H. Gertner, David S. Scharfstein & Jeremy C. Stein, "Internal Versus External Capital Markets," 109 Q.J. ECON. 1211 (1994) (discussing allocation of resources within a consolidated organization through internal capital markets); Nicola Cetorelli & Linda S. Goldberg, "Global Banks and International Shock Transmission: Evidence from the Crisis," 59 IMF ECON. REV. 41 (2011) (discussing the role of internal capital markets as a mechanism for transmission of stress in the financial system); Nicola Cetorelli & Linda Goldberg, "Liquidity Management of U.S. Global Banks: Internal Capital Markets in the Great Recession" (Fed. Reserve Bank of N. Y. Staff Report No. 511, 2012), available at: [http://www.newyorkfed.org/research/staff\\_reports/sr511.pdf](http://www.newyorkfed.org/research/staff_reports/sr511.pdf) (finding that foreign affiliates were both recipients and providers of funds to the parent between March 2006 and December 2010). *See also*, Ralph de Haas and Iman Van Lelyvelt, "Internal Capital Markets and Lending by Multinational Bank Subsidiaries (2008) (discussing substitution effect in lending across several countries as a parent bank expand its business in those countries where economic conditions improve and decrease its activities where economic circumstance worsen), available at: <https://www.ebrd.com/downloads/research/economics/workingpapers/wp0105.pdf>.

For purposes of the nonbank assets indicator, the proposals would have treated inter-affiliate transactions similarly for foreign and domestic banking organizations. For foreign banking organizations, the proposals would have measured nonbank assets as the sum of assets in consolidated U.S. nonbank subsidiaries together with investments in unconsolidated U.S. nonbank companies that are controlled by the foreign banking organization.<sup>68</sup> Both foreign and domestic banking organizations would have included in nonbank assets inter-affiliate transactions between the nonbank company and other parts of the organization.<sup>69</sup>

Accordingly, for purposes of the risk-based indicators, the final rule adopts the treatment of inter-affiliate transactions as proposed.

#### H. Determination of Applicable Category of Standards

Under the proposals, a banking organization would have determined its category of standards based on the average levels of each indicator at the banking organization, reported over the preceding four calendar quarters. If the banking organization had not reported risk-based indicator levels for each of the preceding four calendar quarters, the category would have been based on the risk-based indicator level for the quarter, or average levels over the quarters, that the banking organization has reported.

For a change to a more stringent category (for example, from Category IV to Category III), the change would have been based on an increase in the average value of its indicators over the prior four quarters of a calendar year. In contrast, for a banking organization to change to a less stringent category (for example, Category II to Category III), the banking organization would have been required to report risk-based indicator levels below any applicable threshold for the more stringent category in each of the four preceding calendar quarters. Changes in a banking organization's requirements that result from a change in category generally would have taken effect on the first day of the second quarter following the change in the banking organization's category.

The Board received several comments on the process for determining the applicable category of standards under the proposal and on the amount of time provided to comply with the

<sup>68</sup> *See* FR Y-9LP, Schedule PC-B, line item 17.

<sup>69</sup> *See* FR Y-9 LP Instructions for Preparation of Parent Company Only Financial Statements for Large Holding Companies (September 2018).

<sup>63</sup> *See* 12 CFR 252.2 and 252.150 (definition of "Average combined U.S. assets)."

<sup>64</sup> *See* Call Report instructions, FR Y-9C.

<sup>65</sup> For example, the LCR rule differentiates between unsecured wholesale funding provided by financial sector entities and by non-financial sector entities, but does not differentiate between financial sector entities that are affiliates and those that are not affiliates. 12 CFR 249.32(h). The LCR rule differentiates between affiliates and third parties under limited circumstances. *See, e.g.*, 12 CFR 249.32(g)(7).

requirements of a new category. In particular, several commenters suggested providing banking organizations with at least 18 months to comply with a more stringent category of standards. Several commenters recommended that the Board retain discretion to address a temporary increase in an activity, such as to help a banking organization avoid a sudden change in the categorization of applicable standards. These commenters suggested that any adjustments of thresholds could consider both qualitative information and supervisory judgment. Commenters also requested that the Board clarify the calculation of certain indicators; for example, by providing references to specific line items in the relevant reporting forms. One commenter also suggested that the Board revise the reporting forms used to report risk-based indicator levels so that they apply to a depository institution that is not part of a bank or savings and loan holding company structure.

The final rule maintains the process for determining the category of standards applicable to a banking organization as proposed. To move into a category of standards or to determine the category of standards that would apply for the first time, a banking organization would rely on an average of the previous four quarters or, if the banking organization has not reported in each of the prior four quarters, the category would be based on the risk-based indicator level for the quarter, or average levels over the quarter or quarters, that the banking organization has reported. Use of a four-quarter average would capture significant changes in a banking organization's risk profile, rather than temporary fluctuations, while maintaining incentives for a banking organization to reduce its risk profile relative to a longer period of measurement.

To move to a less stringent category of standards, a banking organization must report risk-based indicator levels below any applicable threshold for the more stringent category in each of the four preceding calendar quarters. This approach is consistent with the existing applicability and cessation requirements of the Board's enhanced prudential standards rule.<sup>70</sup> In addition, the final rule would adopt the transition for compliance with a new category of standards as proposed. Specifically, a banking organization that changes from one category of applicable standards to another category must generally comply with the new requirements no later than

on the first day of the second quarter following the change in category.

The final rule does not provide for discretionary adjustments of thresholds on a case-by-case basis, because such an approach would diminish the transparency and predictability of the framework and could reduce incentives for banking organizations to engage in long-term management of their risks.<sup>71</sup>

Each risk-based indicator will generally be calculated in accordance with the instructions to the FR Y-15, FR Y-9LP, Capital and Asset Report for Foreign Banking Organizations (FR Y-7Q), or FR Y-9C, as applicable. The risk-based indicators must be reported for the banking organization on a quarterly basis.<sup>72</sup> U.S. banking organizations currently report the information necessary to determine their applicable category of standards based on a four-quarter average. In response to concerns raised by commenters, the Board also is revising its reporting forms to specify the line items used in determining the risk-based indicators. Section XV of this **SUPPLEMENTARY INFORMATION** discusses changes to reporting requirements, and identifies the specific line items that will be used to calculate risk-based indicators.<sup>73</sup> With respect to the commenters' concern regarding the applicability of these reporting forms to depository institutions that are not part of a bank or savings and loan holding company structure, the Board notes that no such depository institution would be subject to the final rule based on first quarter 2019 data. The Board will monitor the implementation of the final rule and make any such adjustments to reporting forms, as needed, to require such a depository institution to report risk-based indicator levels.

Some commenters asserted that banking organizations could adjust their exposures to avoid thresholds, including by making temporary adjustments to lower risk-based indicator levels reported. The Board will continue to monitor risk-based indicator amounts reported and information collected through supervisory processes to ensure that the risk-based indicators are reflective of a

banking organization's overall risk profile, and would consider changes to reporting forms, as needed. In particular, the Board will monitor weighted short-term wholesale funding levels reported at quarter-end, relative to levels observed during the reporting period.

## VI. Prudential Standards for Large U.S. and Foreign Banking Organizations

### A. Category I Standards

U.S. GSIBs are subject to the most stringent prudential standards relative to other firms, which reflects and helps to mitigate the heightened risks these firms pose to U.S. financial stability.

The domestic proposal would have required that U.S. GSIBs remain subject to the most stringent stress testing requirements, such as an annual supervisory stress testing, FR Y-14 reporting requirements, and a requirement to conduct company-run stress tests on an annual basis. Consistent with changes made by EGRRCPA, the proposal would have removed the mid-cycle company-run stress test requirement for all bank holding companies, including U.S. GSIBs.<sup>74</sup> The proposal would have maintained the requirement for a U.S. GSIB to conduct an annual company-run stress test.

While many commenters supported a reduction in the frequency of company-run stress testing, some commenters expressed the view that this aspect of the proposal could weaken a tool that is intended to enhance the safety and soundness of banking organizations. These commenters argued that the Board should postpone removing the mid-cycle company-run stress test until the efficacy of this requirement has been evaluated over a full business cycle.

Relative to the annual company-run stress test, the mid-cycle company-run stress test has provided only modest risk management benefits and limited incremental information to market participants. To provide additional flexibility to respond to changes in the risk profile of a banking organization or in times of stress, it is important for the Board to have the ability to adjust the frequency of the company-run stress test requirement. Accordingly, and in

<sup>71</sup> The Board retains the general authority under its enhanced prudential standards, capital, and liquidity rules to increase or adjust requirements as necessary on a case-by-case basis. See 12 CFR 217.1(d); 249.2; 252.3.

<sup>72</sup> A foreign banking organization must also report risk-based indicators as with respect to the organization's combined U.S. operations as applicable under the final rule.

<sup>73</sup> Although U.S. intermediate holding companies currently report the FR Y-15, the revised form would reflect the cross-jurisdictional activity indicator adopted in the final rule.

<sup>74</sup> Section 401 of EGRRCPA amended section 165(i) of the Dodd-Frank Act to require company-run stress tests to be conducted periodically rather than on a semi-annual basis. Certain commenters requested that the Board remove the mid-cycle company-run stress test requirement for the 2019 stress test cycle. Because the final rule is effective after October 5, 2019, which was the due date for mid-cycle company-run stress tests, the removal of this requirement will take effect for the 2020 stress test cycle.

<sup>70</sup> See, e.g., 12 CFR 252.43.

response to commenters, the final rule eliminates the mid-cycle stress testing requirement for all bank holding companies but provides the Board authority to adjust the required frequency at which a banking organization, including a U.S. GSIB, must conduct a stress test based on its financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy. The final rule therefore provides flexibility to the Board to require more frequent company-run stress testing as needed, while minimizing the burden associated with an ongoing semi-annual requirement.

Some commenters also requested that the Board eliminate its ability to object to a firm's capital plan on the basis of qualitative deficiencies (qualitative objection) for all banking organizations.<sup>75</sup> This comment was addressed after the domestic proposal was issued in a separate rulemaking. In March 2019, the Board eliminated the qualitative objection for most firms, including firms that are subject to Category I standards under this final rule.<sup>76</sup> In recognition of the progress that firms have made in their risk management and capital planning practices, their significantly strengthened capital positions, and changes to the Board's supervisory processes, the Board expressed its belief that it is appropriate to transition away from the qualitative objection under the capital plan rule. Because the qualitative objection has led to improvements in firms' capital planning, however, the Board decided to temporarily retain the qualitative objection for firms that recently became subject to the Federal Reserve's qualitative assessment, including certain U.S. intermediate holding companies. In doing so, the capital plan rule provides additional time for those firms to improve their capital planning practices before the qualitative objection is removed. While the qualitative objection no longer applies to certain banking organizations, all banking organizations continue to be subject to

<sup>75</sup> The qualitative assessment evaluates the strength of a company's capital planning process, including the extent to which the analysis underlying a company's capital plan comprehensively captures and addresses potential risks stemming from company-wide activities, as well as the reasonableness of a company's capital plan and the assumptions and analysis underlying the plan.

<sup>76</sup> 84 FR 8953 (March 13, 2019). Specifically, a firm that participates in four assessments and successfully passes the qualitative evaluation in the fourth year is no longer subject to a potential qualitative objection.

robust supervisory assessments of their capital planning practices.

The proposal also would have required U.S. GSIBs to remain subject to the most stringent liquidity standards, including the liquidity risk management, monthly internal liquidity stress testing, and liquidity buffer requirements under the enhanced prudential standards rule. The proposal also would have required U.S. GSIBs to report certain liquidity data for each business day under the FR 2052a. The Board did not receive comments on the continued application of these enhanced liquidity standards to U.S. GSIBs and is finalizing liquidity requirements for U.S. GSIBs as proposed.

#### *B. Category II Standards*

The proposals would have required banking organizations subject to Category II standards to remain subject to the most stringent stress testing requirements, including annual supervisory stress testing, FR Y-14 reporting requirements, and a requirement to conduct company-run stress tests on an annual basis. As noted above, the failure or distress of a U.S. banking organization or the U.S. operations of a foreign banking organization that is subject to Category II standards could impose significant costs on the U.S. financial system and economy, although these banking organizations generally do not present the same degree of systemic risk as U.S. GSIBs. Sophisticated stress testing helps to address the risks presented by the size and cross-jurisdictional activity of such banking organizations.<sup>77</sup>

The Board did not receive any comments related to capital planning and stress testing for firms subject to Category II standards, other than those discussed for Category I. The Board is finalizing the removal of the mid-cycle stress test for firms subject to Category II standards and adjusting the frequency of stress testing requirements, as discussed above. The Board is not finalizing changes to the capital plan rule to amend the definition of large and noncomplex bank holding company at this time, however. The Board intends to consider such changes in conjunction with other changes to the capital plan rule as part of a future capital plan proposal.

With respect to liquidity, the proposals would have maintained the existing liquidity risk management, monthly internal liquidity stress testing, and liquidity buffer requirements under

the enhanced prudential standards rule for banking organizations that would have been subject to Category II standards. The liquidity risk management requirements under the Board's enhanced prudential standards rule reflect important elements of liquidity risk management in normal and stressed conditions, such as cash flow projections and contingency funding plan requirements. Similarly, internal liquidity stress testing and buffer requirements require a banking organization to project its liquidity needs based on its own idiosyncratic risk profile and to hold a liquidity buffer sufficient to cover those needs. A banking organization subject to Category II standards under the proposals would have been required to conduct internal liquidity stress tests on a monthly basis. A U.S. banking organization would have conducted such stress tests at the top-tier consolidated level, whereas a foreign banking organization would have been required to conduct internal liquidity stress tests separately for each of its U.S. intermediate holding company, if applicable, its collective U.S. branches and agencies, and its combined U.S. operations. The proposals would have also required a top-tier U.S. depository institution holding company or foreign banking organization subject to Category II standards to report FR 2052a liquidity data for each business day.

Category II liquidity standards are appropriate for banking organizations of a very large size or with significant cross-jurisdictional activity. Such banking organizations may have greater liquidity risk and face heightened challenges for liquidity risk management compared to an organization that is smaller or has less of a global reach. In addition, a very large banking organization that becomes subject to funding disruptions may need to engage in asset fire sales to meet its liquidity needs and has the potential to transmit distress to the financial sector on a broader scale because of the greater volume of assets it could sell in a short period of time. Similarly, a banking organization with significant cross-jurisdictional activity may have greater challenges in the monitoring and management of its liquidity risk across jurisdictions and may be exposed to a greater diversity of liquidity risks as a result of its more global operations.

The Board received comments related to the frequency and submission timing of FR 2052a reporting for banking organizations subject to Category II standards. These comments are discussed below in section XV of this **SUPPLEMENTARY INFORMATION**. Otherwise,

<sup>77</sup> See section V.C of this **SUPPLEMENTARY INFORMATION**.

commenters did not provide views on liquidity requirements applicable under Category II. The Board is adopting Category II liquidity standards as proposed.

### C. Category III Standards

For banking organizations subject to Category III standards, the proposals would have removed the mid-cycle company-run stress testing requirement and changed the frequency of the required public disclosure for company-run stress test results to every other year rather than annually. The proposals would have maintained all other stress testing requirements for banking organizations subject to Category III standards. These standards would have included the requirements for an annual capital plan submission and annual supervisory stress testing. A firm subject to Category III standards would also be required to conduct an internal stress test, and report the results on the FR Y-14A, in connection with its annual capital plan submission.

A number of commenters requested that the Board clarify the relationship between the capital plan rule and the stress testing rules and minimize the imposition of any additional requirements or processes. Specifically, commenters requested that the Board clarify expectations for internal stress testing conducted in years during which a company-run stress test would not be required. These commenters requested that internal stress tests be aligned with the analysis required under the capital plan rule by, for example, relying on the capital action assumptions in the Board's stress testing rules. In addition, some of these commenters suggested that the Board reduce burden by limiting the number of scenarios required. Alternatively, some commenters requested that the Board reduce the frequency of the stress testing cycle—including capital plan submissions—to every other year for banking organizations subject to Category III standards.

The final rule retains the frequency of supervisory stress testing and FR Y-14 reporting requirements as proposed. These requirements help to ensure that a banking organization subject to Category III standards maintains sufficient capital to absorb unexpected losses and continue to serve as a financial intermediary under stress. Additionally, all large banking organizations should maintain a sound capital planning process on an ongoing basis, including in years during which a company-run stress test is not

required.<sup>78</sup> As noted in the proposals, the Board will consider any other changes to the capital plan rule as part of a separate capital plan proposal. Reporting requirements are discussed in more detail in section XV of this **SUPPLEMENTARY INFORMATION.**

Other commenters requested that the Board retain the requirement for banking organizations to publicly disclose the results of their stress tests on an annual basis. The Board will continue to publish its annual supervisory stress test results for firms subject to Category III standards and thus the reduced frequency to every other year of firm's required public disclosure should only modestly limit the amount of information that is publicly available. Accordingly, the final rule adopts the stress testing disclosure requirements for banking organizations subject to Category III standards without change.

The proposals would have applied the existing liquidity risk management, monthly internal liquidity stress testing, and liquidity buffer requirements under the enhanced prudential standards rule to banking organizations subject to Category III standards. Additionally, the proposals would have required a top-tier U.S. depository institution holding company or foreign banking organization subject to Category III standards to report daily or monthly FR 2052a liquidity data, depending on the weighted short-term wholesale funding level of the domestic holding company or the foreign banking organization's combined U.S. operations. Specifically, to provide greater insight into banking organizations with heightened liquidity risk, the Board proposed that a top-tier U.S. holding company with \$75 billion or more in weighted short-term wholesale funding, or a foreign banking organization with U.S. operations having at least that amount of weighted short-term wholesale funding, be required to submit FR 2052a data for each business day.

The Board did not receive comments on the application of liquidity stress testing and buffer requirements to banking organizations subject to Category III standards. With respect to liquidity risk management requirements, some commenters requested that the rule permit a banking organization's board of directors to delegate certain oversight and approval functions to a risk committee with primary responsibility for overseeing liquidity risks, including approval of liquidity policies and review of quarterly risk reports. These

commenters also requested elimination of the requirement for a banking organization's board or risk committee to review or approve certain operational documents, such as cash flow projection methodologies and liquidity risk procedures, arguing that these responsibilities are more appropriate for senior management than the board or a committee of the board.

The Board has long taken the view that the board of directors should have responsibility for oversight of liquidity risk management because the directors have ultimate responsibility for the strategic direction of the banking organization, and thus its liquidity profile. Certain risk management responsibilities, however, are assigned to senior management. As such, the final rule maintains the requirement for the board of directors to approve and periodically review the liquidity risk management strategies and policies and review quarterly risk reports. In addition, the final rule continues to state that the liquidity risk management requirements for certain operational documents such as cash flow projection methodologies require submission to the risk committee, rather than the board of directors, for approval.<sup>79</sup> The final rule adopts Category III liquidity risk-management standards as proposed, including monthly liquidity stress testing and liquidity buffer maintenance requirements.

Additionally, as discussed in section XV of this Supplementary Information, the Board received certain comments related to the frequency and timeliness of FR 2052a reporting for banking organizations subject to Category III standards. As discussed in that section, the Board is finalizing FR 2052a reporting requirements for banking organizations subject to Category III standards generally as proposed, with minor changes to submission timing.

### D. Category IV Standards

The proposal would have applied revised stress testing requirements to banking organizations subject to Category IV standards to align with the risk profile of these firms. Specifically, the proposal would have revised the frequency of supervisory stress testing to every other year and eliminated the requirement for firms subject to Category IV standards to conduct and publicly disclose the results of a company-run stress test. Firms subject to Category IV standards also would be subject to FR Y-14 reporting requirements relative to current requirements under the enhanced

<sup>78</sup> See SR letters 15-18 and 15-19.

<sup>79</sup> See 12 CFR 252.34(e)(3).

prudential standards rule, the proposed Category IV standards would have maintained core elements of existing standards but tailored these requirements to reflect these banking organizations' lower risk profile and lesser degree of complexity relative to other large banking organizations.

Many commenters supported the reduced frequency of supervisory stress tests as a form of burden reduction. However, some commenters opposed this change and expressed concern that it would allow banking organizations subject to Category IV standards to take on additional risk during off-cycle years, and limit the public and market's ability to assess systemic risk. Other commenters also argued that stress testing requirements are not justified for banking organizations subject to Category IV standards in view of the significant costs and burden associated with such requirements. Some commenters requested that the Board provide additional information on the impact of reducing the frequency of supervisory stress testing for banking organizations subject to Category IV standards.

Supervisory stress testing on a two-year cycle is consistent with section 401(e) of EGRRCPA, and takes into account the risk profile of these banking organizations relative to those that are larger and more complex. Maintaining FR Y-14 reporting requirements for firms subject to Category IV standards will provide the Board with the data it needs to conduct supervisory stress testing and inform ongoing supervision of these firms. The Federal Reserve will continue to supervise banking organizations subject to Category IV standards on an ongoing basis, including evaluation of the capital adequacy and capital planning processes during off-cycle years. In addition, the final rule provides the Board with authority to adjust the frequency of stress testing requirements based on the risk profile of a banking organization or other factors. Accordingly, the final rule adopts the revisions to the frequency of supervisory stress testing requirements for firms subject to Category IV standards as proposed. Reporting requirements are discussed in more detail in section XV below.

Similar to the comments discussed above, several commenters requested that the Board clarify the relationship between the capital plan rule and the stress testing rules for banking organizations subject to Category IV standards. In particular, commenters requested that the Board clarify what information would be required in a

capital plan and related reporting forms submitted by a banking organization subject to Category IV standards, given that these banking organizations would not be subject to company-run stress testing requirements. Other commenters requested that any forward-looking analysis required for banking organizations subject to Category IV standards be limited and not require hypothetical stress scenarios. The Board plans to propose changes to the capital plan rule as part of a separate proposal, including providing firms subject to Category IV standards additional flexibility to develop their annual capital plans.

Under the proposals, Category IV standards would have included liquidity risk management, stress testing, and buffer requirements. Banking organizations subject to Category IV standards also would have been required to report FR 2052a liquidity data on a monthly basis. While the proposals would have retained core liquidity requirements under Category IV standards, certain liquidity risk management and liquidity stress testing requirements would have been further tailored to more appropriately reflect the risk profiles of banking organizations subject to this category of standards.

As a class, banking organizations that would have been subject to Category IV standards tend to have more stable funding profiles, as measured by their generally lower level of weighted short-term wholesale funding, and lesser degrees of liquidity risk and operational complexity associated with size, cross-jurisdictional activity, nonbank assets, and off-balance sheet exposure. Accordingly, the proposals would have reduced the frequency of required internal liquidity stress testing to at least quarterly, rather than monthly. The proposals would not have changed other aspects of the liquidity buffer requirements for banking organizations subject to Category IV standards.

The proposals would have modified certain liquidity risk-management requirements under the enhanced prudential standards rule for banking organizations subject to Category IV standards. First, the proposals would have required such banking organizations to calculate collateral positions on a monthly basis, rather than a weekly basis. Second, the proposals would have further tailored the requirement under the enhanced prudential standards rule for certain bank holding companies to establish risk limits to monitor sources of

liquidity risk.<sup>80</sup> Third, Category IV standards would have specified fewer required elements of monitoring intraday liquidity risk exposures.<sup>81</sup> Such changes would have reflected the generally more stable funding profiles and lower degrees of intraday risk and operational complexity of these banking organizations relative to those that are larger and more complex. Under the proposals, banking organizations subject to Category IV standards also would have been required to report FR 2052a liquidity data on a monthly basis.

Some commenters objected to the liquidity risk-management standards proposed for banking organizations subject to Category IV standards, on the basis that any reduction in such requirements could increase safety and soundness and financial stability risks. Other commenters supported this aspect of the proposals, and asserted that it would distinguish more effectively between banking organizations in this category and those that are larger and more complex.

Banking organizations subject to Category IV standards generally are less prone to funding disruptions, even under stress conditions. Monthly FR 2052a information, which is discussed in more detail in section XV below, together with information obtained through the supervisory process, allows the Board to monitor the liquidity risk profiles of these banking organizations. Accordingly, the final rule adopts the proposed Category IV liquidity standards without change.

## VII. Single-Counterparty Credit Limits

In 2018, the Board adopted a final rule to apply single-counterparty credit limits to large U.S. and foreign banking organizations (single-counterparty credit limits rule). The single-counterparty credit limits rule limits the aggregate net credit exposure of a U.S. GSIB and any bank holding company with total consolidated assets of \$250 billion or more to a single counterparty. The credit exposure limits are tailored to the size and systemic footprint of the firm. Single-counterparty credit limit requirements also apply to a foreign banking organization with \$250 billion or more in total consolidated assets with respect to its combined U.S. operations, and separately to any subsidiary U.S. intermediate holding company of such a firm.<sup>82</sup> A foreign banking organization may comply with single-counterparty credit limits applicable to its combined U.S. operations by certifying that it

<sup>80</sup> 12 CFR 252.34(g).

<sup>81</sup> See 12 CFR 252.34(h)(3).

<sup>82</sup> 12 CFR 252.170(a).

meets, on a consolidated basis, standards established by its home country supervisor that are consistent with the BCBS large exposure standard.<sup>83</sup>

The domestic proposal would have modified the thresholds for application of the single-counterparty credit limit rule to apply single-counterparty credit limits to all U.S. bank holding companies that would be subject to Category II or Category III standards. This change would have aligned the thresholds for application of single-counterparty credit limits requirements with the proposed thresholds for other prudential standards. Similarly, the foreign bank proposal would have revised the single-counterparty credit limit requirements to align with the proposed thresholds for other enhanced prudential standards applied to the U.S. operations of foreign banking organizations. Under the proposal, single-counterparty credit limits would have applied to foreign banking organizations subject to Category II or Category III standards or to a foreign banking organization with \$250 billion or more in total consolidated assets. The proposal would have preserved the ability of a foreign banking organization to comply with the single-counterparty credit limits by certifying to the Board that it meets comparable home-country standards that apply on a consolidated basis. The proposal also would have applied single-counterparty credit limits separately to a U.S. intermediate holding company subsidiary of a foreign banking organization subject to Category II or Category III standards, based on the risk profile of the foreign banking organization's combined U.S. operations. Under the proposal, the requirements previously applicable to U.S. intermediate holding companies with \$250 billion or more in assets would have applied to all U.S. intermediate holding companies subject to single-counterparty credit limits—specifically, the aggregate net credit exposure limit of 25 percent of tier 1 capital, the treatment regarding exposures to special purpose vehicles (SPVs) and the application of the economic interdependence and control relationship tests, as well as the required frequency of compliance. The proposal also would have eliminated the distinction under the single-counterparty credit limits rule for “major” U.S. intermediate holding

companies, and subjected all U.S. intermediate holding companies subject to the single-counterparty credit limits rule to the same aggregate net credit exposure limit. The proposal would not have applied single-counterparty credit limits to U.S. intermediate holding companies under Category IV.

Many commenters supported the proposed exclusion of U.S. intermediate holding company subsidiaries of foreign banking organizations subject to Category IV standards from single-counterparty credit limits.<sup>84</sup> Some commenters asserted that single-counterparty credit limits for a U.S. intermediate holding company should be determined based on the risk profile of the U.S. intermediate holding company rather than on the risk profile of the combined U.S. operations of its parent foreign banking organization. While some commenters supported the proposal's expansion of single-counterparty credit limit requirements for U.S. intermediate holding companies with less than \$250 billion in assets under Categories II and III, others argued that this approach was unnecessary. Some commenters also requested an extended compliance period for the treatment of exposures to SPVs and application of the economic interdependence and control test. The commenters also argued that the Board should give the single-counterparty credit limits rule the opportunity to take effect before considering further changes.

Single-counterparty credit limits support safety and soundness and are designed to reduce transmission of distress, particularly for larger, riskier, and interconnected banking organizations. The risks indicated by size, cross-jurisdictional activity, off-balance sheet exposure, and weighted short-term wholesale funding and that result in the application of Category II and Category III standards evidence vulnerability to safety and soundness and financial stability risks, which may be exacerbated if a banking organization has outsized credit exposure to a single counterparty. Therefore, the final rule adopts the single-counterparty credit limits proposed for U.S. banking organizations without change. The Board is, however, revising the proposed single-counterparty credit limit requirements for U.S. intermediate holding companies so that the application of such requirements are based on the risk profile of the U.S.

intermediate holding company rather than on the risk profile of the combined U.S. operations of its parent foreign banking organization. This revision would improve the focus and efficiency of single-counterparty credit limits relative to the proposal, because single-counterparty credit limits that apply to a U.S. intermediate holding company will be based on the U.S. intermediate holding company's own risk profile. As a result, only U.S. intermediate holding companies subject to Category II or III standards are separately subject to the single-counterparty credit limits rule. These U.S. intermediate holding companies are subject to a single net aggregate credit exposure limit of 25 percent of tier 1 capital. In addition, these firms are subject to the treatment for exposures to SPVs, the economic interdependence and control tests, and the daily compliance requirement that was previously only applicable to U.S. intermediate holding companies with \$250 billion or more in assets. The final rule would provide U.S. intermediate holding companies with less than \$250 billion in assets that are subject to Category II or III standards an additional transition time, until January 1, 2021, to come into compliance with more stringent requirements.

#### VIII. Covered Savings and Loan Holding Companies

The proposal would have subjected covered savings and loan holding companies to supervisory and company-run stress testing requirements; risk-management and risk-committee requirements; liquidity risk management, stress testing, and buffer requirements; and single-counterparty credit limits, pursuant to section 10(g) of the Home Owners' Loan Act (HOLA).<sup>85</sup> These requirements would have been applied to covered savings and loan holding companies in the same manner as a similarly situated bank holding company.<sup>86</sup> As described in the reporting section, section XV, the proposal would have expanded the scope of applicability of the FR Y-14 reporting requirements to apply to covered savings and loan holding companies with total consolidated assets of \$100 billion or more. The proposal also noted that the Board planned to seek comment on the application of capital planning requirements to covered savings and

<sup>83</sup> 12 CFR 252.172(d). See also BCBS, Supervisory Framework for Measuring and Controlling Large Exposures (April 2014). The large exposures standard establishes an international single-counterparty credit limit framework for internationally active banks.

<sup>84</sup> Some commenters' suggested modifications to the single-counterparty credit limit rule that are beyond the scope of changes in this rulemaking. Therefore, these changes are not discussed separately in this SUPPLEMENTARY INFORMATION.

<sup>85</sup> 12 U.S.C. 1467a(g).

<sup>86</sup> A covered savings and loan holding company would not be subject to Category I standards as the definition of “global systemically important BHC” under the GSIB surcharge rule does not include savings and loan holding companies. See 12 CFR 217.2.

loan holding companies that would be consistent with the capital planning requirements for large bank holding companies as part of a separate proposal.

Some commenters argued that the Board lacks the authority to apply prudential standards to savings and loan holding companies that are not designated by the Financial Stability Oversight Council (FSOC) as systemically important nonbank financial companies under section 113 of the Dodd-Frank Act.<sup>87</sup> These commenters argued that the Board may only apply the proposed prudential standards to covered savings and loan holding companies that have been designated by the FSOC for supervision by the Board and not based on the general grant of authority in section 10(g) of the HOLA.<sup>88</sup> Commenters argued that application of prudential standards to covered savings and loan holding companies pursuant to section 10(g) of HOLA implied that these prudential standards could be applied to banking organizations regardless of size, an inference that commenters asserted would be contrary to the congressional intent of the Dodd-Frank Act and EGRRCPA.

Section 10(g) of HOLA authorizes the Board to issue such regulations and orders, including regulations relating to capital requirements, as the Board deems necessary or appropriate to administer and carry out the purposes of section 10 of HOLA. As the primary federal regulator and supervisor of savings and loan holding companies, one of the Board's objectives is to ensure that savings and loan holding companies operate in a safe-and-sound manner and in compliance with applicable law. Like bank holding companies, savings and loan holding companies must serve as a source of strength to their subsidiary savings associations and may not conduct operations in an unsafe and unsound manner.

Section 165 of the Dodd-Frank Act directs the Board to establish specific enhanced prudential standards for large bank holding companies and companies designated by FSOC in order to prevent or mitigate risks to the financial stability of the United States.<sup>89</sup> Section 165 does not prohibit the application of standards

to savings and loan holding companies and bank holding companies pursuant to other statutory authorities.<sup>90</sup>

One commenter supported the proposal's application of prudential standards to covered savings and loan holding companies, asserting that covered savings and loan holding companies have similar risk profiles as bank holding companies and therefore should not be treated differently under the Board's regulatory framework. Another commenter asserted that certain of the risk-based indicators were not reflective of risks to safety and soundness for savings and loan holding companies and should be modified. Similarly, this commenter also argued that covered savings and loan holding companies were less risky and less complex than bank holding companies of the same size and should be subject to streamlined capital planning requirements and supervisory expectations. The commenter also opposed the application of single-counterparty credit limits to covered savings and loan holding companies on the basis that the application of these standards would be inconsistent with the qualified thrift lender test, described below. This commenter argued that, if applied, the limits should be modified to exclude mortgage-backed securities of U.S. government-sponsored enterprises.

Large covered savings and loan holding companies engage in many of the same activities and face similar risks as large bank holding companies. By definition, covered savings and loan holding companies are substantially engaged in banking and financial activities, including deposit taking, lending, and broker-dealer activities.<sup>91</sup> Large covered savings and loan holding companies engage in credit card and margin lending and certain complex nonbanking activities that pose higher levels of risk. Large covered savings and loan holding companies can also rely on high levels of short-term wholesale funding, which may require sophisticated capital, liquidity, and risk management processes. Similar to large bank holding companies, large covered savings and loan holding companies also conduct business across a large geographic footprint, which in times of stress could present certain operational

risks and complexities. As discussed above in section V, the risk-based indicators identify risks to safety and soundness in addition to risks to financial stability. The category framework would align requirements with the risk profile of a banking organization, including by identifying risks that warrant more sophisticated capital planning, more frequent company-run stress testing, and greater supervisory oversight through supervisory stress testing, to further the safety and soundness of these banking organizations. By strengthening the risk-management, capital, and liquidity requirements commensurate with these risks, the final rule would improve the resiliency and promote the safe and sound operations of covered savings and loan holding companies. Accordingly, the Board is adopting the application of prudential standards to covered savings and loan holding companies as proposed.

These standards include supervisory stress testing and, for Categories II and III, company-run stress testing requirements.<sup>92</sup> Stress testing requirements provide a means to better understand the financial condition of the banking organization and risks within the banking organization that may pose a threat to safety and soundness. To implement the supervisory stress testing requirements, the Board is requiring covered savings and loan holding companies to report the FR Y-14 reports in the same manner as a bank holding company.<sup>93</sup> The final rule does not establish capital planning requirements for covered savings and loan holding companies. The Board intends to propose to apply those requirements to covered savings and loan holding companies as part of a separate proposal that would be issued for public notice and comment.

The final rule also would apply liquidity risk management, stress testing and buffer requirements to covered savings and loan holding companies. Specifically, a covered savings and loan holding company is required to conduct internal stress tests at least monthly (or

<sup>92</sup> Company-run stress test requirements are discussed further in section XIII. of this SUPPLEMENTARY INFORMATION.

<sup>93</sup> Covered savings and loan holding companies with total consolidated assets of \$100 or more are required to report the FR Y-14M and all schedules of the FR Y-14Q except for Schedules C—Regulatory Capital Instruments and Schedule D—Regulatory Capital Transitions. These firms also are required to report the FR Y-14A Schedule E—Operational Risk. Covered savings and loan holding companies subject to Category II or III standards are required to submit the FR Y-14A Schedule A—Summary and Schedule F—Business Plan Changes in connection with the company-run stress test requirement.

<sup>87</sup> 12 U.S.C. 5323.

<sup>88</sup> Specifically, commenters argued that relying on the general authority of section 10(g) of HOLA to apply prudential standards to covered savings and loan holding companies would be inconsistent with a canon of statutory construction that specific statutory language ordinarily prevail over conflicting general language.

<sup>89</sup> 12 U.S.C. 5365(a)(1).

<sup>90</sup> See EGRRCPA 401(b).

<sup>91</sup> A covered savings and loan holding company must have less than 25 percent of its total consolidated assets in insurance underwriting subsidiaries (other than assets associated with insurance underwriting for credit), must not have a top-tier holding company that is an insurance underwriting company, and must derive a majority of its assets or revenues from activities that are financial in nature under section 4(k) of the Bank Holding Company Act. 12 CFR 217.2.

quarterly, for a firm that is subject to Category IV standards) to measure its potential liquidity needs across overnight, 30-day, 90-day, and 1-year planning horizons during times of instability in the financial markets. In addition, the covered savings and loan holding company is required to hold highly liquid assets sufficient to meet the projected 30-day net stress cash-flow need under internal stress scenarios. A covered savings and loan holding company is also required to meet specified corporate governance requirements around liquidity risk management, to produce cash flow projections over various time horizons, to establish internal limits on certain liquidity metrics, and to maintain a contingency funding plan that identifies potential sources of liquidity strain and alternative sources of funding when usual sources of liquidity are unavailable. These liquidity risk management, liquidity stress testing, and buffer requirements help to ensure that covered savings and loan holding companies have effective governance and risk-management processes to determine the amount of liquidity to cover risks and exposures, and sufficient liquidity to support their activities through a range of conditions.

The final rule applies single-counterparty credit limits to covered savings and loan holding companies that are subject to Category II or III standards as proposed. Application of single-counterparty credit limits to covered savings and loan holding companies would reduce the likelihood that distress at another firm would be transmitted to the savings and loan holding company.

The single-counterparty credit limits exempt transactions with government-sponsored entities (GSEs), such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corp. (Freddie Mac), from limits on credit exposure, so long as the GSE remains under U.S. government conservatorship.<sup>94</sup> As commenters observed, if the GSEs exit conservatorship, the single-counterparty credit limits would limit a banking organization from holding mortgage-backed securities of U.S. GSEs (Agency MBS) in excess of 25 percent of tier 1

capital.<sup>95</sup> The qualified thrift lender test (QTL test) requires a savings association to either be a domestic building association or have qualified thrift investments exceeding 65 percent of its portfolio assets.<sup>96</sup> The QTL test permits Agency MBS to be used to satisfy the QTL test without limit.<sup>97</sup> While the GSEs are under U.S. government conservatorship, the single-counterparty credit limits would not affect the ability of a banking organization, including a savings association, to hold Agency MBS.

Fannie Mae and Freddie Mac have been operating under the conservatorship of the Federal Housing Finance Agency since 2008 and, concurrent with being placed in conservatorship, received capital support from the United States Department of the Treasury.<sup>98</sup> The timing and terms of Fannie Mae and Freddie Mac exiting conservatorship are uncertain. In addition, other aspects of the Board's regulatory framework could be affected by a change to the conservatorship status of Fannie Mae or Freddie Mac. The Board will continue to monitor and take into consideration any future changes to the conservatorship status of the GSEs, including the extent and type of support received by the GSEs. As appropriate, the Board will consider changes to the application of single-counterparty credit limits to covered savings and loan holding companies and other banking organizations, as well as to other aspects of the Board's regulatory framework.

Finally, one commenter urged the Board to provide covered savings and loan holding companies extended transition periods to come into compliance with the new requirements, if adopted. The final rule would provide covered savings and loan holding companies a transition period to come into compliance with the new prudential standards. Specifically, a covered savings and loan holding company will be required to comply with risk-management and risk-committee requirements as well as the liquidity risk-management, stress testing, and buffer requirements on the first day of the fifth quarter following the effective date of the final rule. A covered savings and loan holding company will be required to comply with single-counterparty credit limits and stress testing requirements on the first day of the ninth quarter following the effective date of the final rule.

Transition periods for reporting requirements are discussed in section XV of this **SUPPLEMENTARY INFORMATION**.

## **IX. Risk Management and Risk Committee Requirements**

Section 165(h) of the Dodd-Frank Act requires certain publicly traded bank holding companies to establish a risk committee that is "responsible for the oversight of the enterprise-wide risk management practices" and meets other statutory requirements.<sup>99</sup> EGRRCPA raised the threshold for mandatory application of the risk-committee requirement from publicly traded bank holding companies with \$10 billion or more in total consolidated assets to publicly traded bank holding companies with \$50 billion or more in total consolidated assets. However, the Board has discretion to apply risk-committee requirements to publicly traded bank holding companies with under \$50 billion in total consolidated assets if the Board determines doing so would be necessary or appropriate to promote sound risk-management practices.

The proposal would have raised the threshold for application of risk-committee requirements consistent with the changes made by EGRRCPA. Under the proposal, a publicly traded or privately held U.S. bank holding company with total consolidated assets of \$50 billion or more would have been required to maintain a risk committee. The proposal would have applied the same risk-committee requirements to covered savings and loan holding companies with \$50 billion or more in total consolidated assets as would have applied to a U.S. bank holding company of the same size.

Under the enhanced prudential standards rule, as adopted, all foreign banking organizations with total consolidated assets of \$50 billion or more, and publicly traded foreign banking organizations with \$10 billion or more in total consolidated assets, were required to maintain a risk committee that met specified requirements. These requirements varied based on a foreign banking organization's total consolidated assets and combined U.S. assets. Publicly traded foreign banking organizations with at least \$10 billion but less than \$50 billion in total consolidated assets, as well as foreign banking organizations with total consolidated assets of \$50 billion or more but less than \$50 billion in combined U.S. assets, were required to annually certify to the Board that they maintain a qualifying committee that oversees the risk management practices

<sup>94</sup> The Board's single-counterparty credit limits exclude any direct claim on, and the portion of a claim that is directly and fully guaranteed as to principal and interest by, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, only while operating under the conservatorship or receivership of the Federal Housing Finance Agency. 12 CFR 252.77. Agency MBS also are considered eligible collateral while the GSEs remain in conservatorship. 12 CFR 252.71.

<sup>95</sup> 12 CFR 252.177(a)(1); 12 CFR 238.150.

<sup>96</sup> 12 U.S.C. 1467a(m)(3)(C).

<sup>97</sup> 12 U.S.C. 1467a(m)(4)(C)(ii)(III).

<sup>98</sup> See 79 FR 77602 (December 24, 2014).

<sup>99</sup> 12 U.S.C. 5363(h).



of the combined U.S. operations of the foreign banking organization. In contrast, foreign banking organizations with total consolidated assets of \$50 billion or more and \$50 billion or more in combined U.S. assets were subject to more detailed risk-committee and risk-management requirements, including the requirement to appoint a U.S. chief risk officer.

Consistent with EGRRCPA, the proposal would have raised the total consolidated asset threshold for application of the risk-committee requirements to foreign banking organizations but would not have changed the substance of the risk-committee requirements for these firms.

One commenter argued for additional flexibility in meeting certain requirements for certain foreign banking organizations that do not have a U.S. intermediate holding company. Specifically, the commenter requested that the Board modify the U.S. chief risk officer requirement so that foreign banking organizations without a U.S. intermediate holding company could be allowed to identify a senior officer to serve as the point of contact responsible for the U.S. risk management structure.

The Board is finalizing the risk-committee requirements as proposed. Sound enterprise-wide risk management supports safe and sound operations of banking organizations and reduces the likelihood of their material distress or failure, and thus also promotes financial stability. The final rule applies risk-committee requirements to a publicly traded or privately held bank holding company or covered savings and loan holding company with total consolidated assets of \$50 billion or more. These standards enhance safety and soundness and help to ensure independent risk management, which is appropriate for firms of this size, including both privately held as well as publicly traded banking organizations. Applying the same minimum standards to covered savings and loan holding companies accordingly furthers their safety and soundness by addressing concerns that apply equally across large depository institution holding companies.

Taking into consideration varying structures of their U.S. operations, the proposed risk-management requirements are important to ensure safety and soundness of the U.S. operations of a foreign banking organization as well. Under the final rule, foreign banking organizations with \$50 billion or more but less than \$100 billion in total consolidated assets, as well as foreign banking organizations with total consolidated assets of \$100

billion or more but less than \$50 billion in combined U.S. assets, are required to maintain a risk committee and make an annual certification to that effect.

Additionally, foreign banking organizations with total consolidated assets of \$100 billion or more and \$50 billion or more in combined U.S. assets are required to comply with the more detailed risk-committee and risk-management requirements under the enhanced prudential standards rule, which include the chief risk officer requirement. The final rule eliminates the risk-committee requirements that apply to foreign banking organizations with less than \$50 billion in total consolidated assets. For banking organizations with less than \$50 billion in total consolidated assets, the Board proposes to review the risk-management practices of such firms through existing supervisory processes and expects that all firms establish risk-management processes and procedures commensurate with their risks.

#### **X. Enhanced Prudential Standards for Foreign Banking Organizations With a Smaller U.S. Presence**

The Board's regulatory framework tailors the application of enhanced prudential standards to foreign banking organizations based on the size and complexity of the organization's U.S. operations. In particular, subparts L and M of the enhanced prudential standards rule, as adopted, established company-run stress testing and risk-management and risk-committee requirements for foreign banking organizations with at least \$10 billion but less than \$50 billion in total consolidated assets, the latter of which is described above. Additionally, subpart N, as adopted, established risk-based and leverage capital, risk-management and risk-committee, liquidity risk management, and capital stress testing requirements for foreign banking organizations with at least \$50 billion in total consolidated assets but less than \$50 billion in combined U.S. assets.<sup>100</sup> These provisions largely required the foreign banking organization to comply with home-country capital and liquidity standards at the consolidated level, and imposed certain risk-management requirements that are specific to the U.S. operations of a foreign banking organization.

The proposal would have maintained this approach for foreign banking organizations with a limited U.S. presence; however, it would have also implemented targeted changes to reduce the stringency of certain requirements

applicable to these firms. It also would have maintained certain risk-management and capital requirements for a U.S. intermediate holding company of a foreign banking organization that does not meet the thresholds under the proposal for the application of Category II, III, or IV standards.

#### *A. Enhanced Prudential Standards for Foreign Banking Organizations With Less Than \$50 Billion in Total Consolidated Assets*

The proposal would have eliminated risk-committee and risk-management requirements for foreign banking organizations with less than \$50 billion in total consolidated assets, as described above.

In addition, consistent with EGRRCPA, the proposal would have eliminated subpart L of the Board's enhanced prudential standards rule, which currently prescribes company-run stress testing requirements for foreign banking organizations with more than \$10 billion but less than \$50 billion in total consolidated assets.<sup>101</sup> As a result, foreign banking organizations with less than \$50 billion in total consolidated assets would no longer be required to be subject to a home-country capital stress testing regime, or if the foreign banking organization was not subject to qualifying home country standards, additional stress testing requirements in subpart L.<sup>102</sup>

EGRRCPA raised the threshold for mandatory application of company-run stress testing requirements from financial companies with more than \$10 billion in total consolidated assets to financial companies with more than \$250 billion in total consolidated assets. Commenters were generally supportive of the Board's proposed changes to raise the thresholds for application of standards consistent with EGRRCPA. Accordingly, the Board is finalizing

<sup>101</sup> Subpart L, as adopted, also applied to foreign savings and loan holding companies with more than \$10 billion in total consolidated assets. See 12 CFR 252.120 *et seq.*

<sup>102</sup> For foreign savings and loan holding companies, the proposal would have applied company-run stress testing requirements to foreign savings and loan holding companies with more than \$250 billion in total consolidated assets. These requirements would have been the same as those that were established under subpart L of the enhanced prudential standards rule. See *id.* Raising the asset size threshold for application of company-run stress testing requirements for foreign savings and loan holding companies to more than \$250 billion in total consolidated assets would be consistent with section 165(i)(2) of the Dodd-Frank Act, as amended by EGRRCPA. Under this final rule, company-run stress test requirements for foreign savings and loan holding companies would be in the new subpart R of Regulation LL.

changes to the thresholds for application of the company-run stress testing, risk-committee and risk-management requirements as proposed.

*B. Enhanced Prudential Standards for Foreign Banking Organizations With \$100 Billion or More in Total Consolidated Assets but Less Than \$100 Billion in Combined U.S. Assets*

Subpart N of the enhanced prudential standards rule, as adopted, established risk-based and leverage capital, liquidity risk management, and capital stress testing requirements for foreign banking organizations with \$50 billion or more in total consolidated assets but less than \$50 billion in combined U.S. assets. These standards largely required compliance with home-country standards.

Under the proposed rule, the requirements under subpart N would have continued to largely defer to home-country standards and remain generally unchanged from the requirements that apply currently to a foreign banking organization with a limited U.S. presence, including liquidity risk management requirements, risk-based and leverage capital requirements, and capital stress testing requirements. However, consistent with the proposed changes to the frequency of stress testing for smaller and less complex domestic holding companies, the proposal would have required foreign banking organizations with total consolidated assets of less than \$250 billion that do not meet the criteria for application of Category II, III, or IV standards to be subject to a home-country supervisory stress test on a biennial basis, rather than annually.

As discussed above, risk-committee requirements in subpart N would have been further differentiated based on combined U.S. assets. Under the proposal, foreign banking organizations with \$100 billion or more in total consolidated assets but less than \$50 billion in combined U.S. assets would have been required to certify on an annual basis that they maintain a qualifying risk committee that oversees the risk management policies of the combined U.S. operations of the foreign banking organization. In contrast, foreign banking organizations with \$100 billion or more in total consolidated assets, and at least \$50 billion but less than \$100 billion in combined U.S. assets would have been subject to more detailed risk-committee and risk-management requirements, which include the chief risk officer requirement. These more detailed risk-committee requirements would be the same requirements that previously

applied to foreign banking organizations with \$100 billion or more in combined U.S. assets.

The Board did not propose to revise the \$50 billion U.S. non-branch asset threshold for the U.S. intermediate holding company formation requirement. Because a foreign banking organization with less than \$100 billion in combined U.S. assets may have or could be required to form a U.S. intermediate holding company, the proposal would have established an intermediate holding company requirement for these foreign banking organizations in subpart N (subpart N intermediate holding company). Under the proposal, a subpart N intermediate holding company would not have been subject to Category II, III, or IV capital standards, but would have remained subject to the risk-based and leverage capital requirements that apply to a U.S. bank holding company of a similar size and risk profile under the Board's capital rule.<sup>103</sup> Similarly, a subpart N intermediate holding company would have been required to comply with risk-management and risk-committee requirements. As under the current rule, under the proposal the risk committee of the U.S. intermediate holding company would have also been able to serve as the U.S. risk committee for the foreign banking organization's combined U.S. operations.

Some commenters objected to the U.S. intermediate holding company requirement entirely. These commenters also argued that, if the requirement is retained, the threshold should be increased to \$100 billion or more, arguing that a \$100 billion threshold would be more consistent with section 401 of EGRRCPA and principle of national treatment and competitive equality.

A number of commenters argued that the U.S. intermediate holding company requirement and the standards applied to U.S. intermediate holding companies discouraged growth through subsidiaries rather than branches (non-branch assets). Instead, commenters argued that growth in non-branch assets should be encouraged on the basis that it improved a foreign banking organization's liquidity risk profile in the United States. These commenters argued that disincentives to form an U.S. intermediate holding company were particularly pronounced if the standards that are applied to the U.S.

intermediate holding company are calibrated based on the risk profile of the foreign banking organization's combined U.S. operations. Some commenters supported the proposed application of fewer enhanced prudential standards to subpart N intermediate holding companies. Other commenters argued that a subpart N intermediate holding company should be subject to risk management standards only.

The Board did not propose to amend the threshold for formation of the U.S. intermediate holding company requirement. The U.S. intermediate holding company requirement has resulted in substantial gains in the resilience and safety and soundness of foreign banking organizations' U.S. operations. EGRRCPA raised the thresholds for application of section 165 of the Dodd-Frank Act, but did not affect the \$50 billion threshold for application of the U.S. intermediate holding company requirement.<sup>104</sup>

The final rule would adopt the subpart N intermediate holding company requirements as proposed. By applying risk management and standardized capital requirements to subpart N intermediate holding companies, the enhanced prudential standards rule would treat a subpart N intermediate holding company similarly to a domestic banking organization of the same size. As some commenters observed, a subpart N intermediate holding company would be subject to fewer and less stringent requirements than a U.S. intermediate holding company of a foreign banking organization subject to subpart O of the Board's enhanced prudential standards rule (subpart O intermediate holding company). Specifically, a subpart N intermediate holding company is not subject to liquidity risk management, liquidity stress testing and buffer requirements. In addition, as discussed above, the application of capital, liquidity and single-counterparty credit limits to a subpart O intermediate holding company would be based on the risk profile of the subpart O intermediate holding company. By establishing two tiers of U.S. intermediate holding company and tailoring the standards applicable to each type of U.S. intermediate holding company, this approach would significantly reduce cliff-effects in the standards applied to U.S. intermediate holding companies and reduce

<sup>103</sup> 12 CFR part 217. As discussed in the interagency foreign banking organization capital and liquidity proposal, such a U.S. intermediate holding company would be subject to the generally applicable risk-based and leverage capital requirements.

<sup>104</sup> See also EGRRCPA 401(g) (discussing the Board's authority to apply enhanced prudential standards to foreign banking organizations with more than \$100 billion in total consolidated assets).

disincentives to growth in branch assets relative to non-branch assets.

### **XI. Technical Changes to the Regulatory Framework for Foreign Banking Organizations and Domestic Banking Organizations**

The proposal would have made several technical changes and clarifying revisions to the Board's enhanced prudential standards rule. In addition to any defined terms described previously in this **SUPPLEMENTARY INFORMATION**, the proposal would have added defined terms for foreign banking organizations with combined U.S. operations subject to Category II, III, or IV standards, defined as "Category II foreign banking organization," "Category III foreign banking organization," or "Category IV foreign banking organization," respectively. Similarly, the proposal would have added defined terms for "Category II U.S. intermediate holding company," "Category III U.S. intermediate holding company," and "Category IV U.S. intermediate holding company." The addition of these terms would facilitate the requirements for application of enhanced prudential standards under the category framework. The final rule uses the Board's GSIB surcharge methodology to identify a U.S. GSIB and refers to these banking organizations as global systemically important bank holding companies, consistent with the term used elsewhere in the Board's regulations. The final rule adopts these changes as proposed, consistent with the adoption of the category framework in this final rule.

In addition, the final rule further streamlines the Board's enhanced prudential standards rule by locating certain definitions common to all subparts into a common definitions section.<sup>105</sup> In addition, the proposal would have made revisions to streamline the process for forming a U.S. intermediate holding company and for requesting an alternative organizational structure. The Board did not receive any comments on these aspects of the proposal and is adopting these changes as proposed.

Specifically, the final rule eliminates the requirement to submit an implementation plan for formation of a U.S. intermediate holding company. The implementation plan requirement was intended to facilitate initial compliance with the U.S. intermediate holding company requirement. To assess compliance with the U.S. intermediate holding company requirement under the proposal,

information would have been requested through the supervisory process. Such information could include information on the U.S. subsidiaries of the foreign banking organization that would be transferred, a projected timeline for the structural reorganization, and a discussion of the firm's plan to comply with the enhanced prudential standards that would be applicable to the U.S. intermediate holding company.

In addition, the Board is making conforming amendments to the process for requesting an alternative organizational structure for a U.S. intermediate holding company, as well as clarifying that a foreign banking organization may submit a request for an alternative organizational structure in the context of a reorganization, anticipated acquisition, or prior to formation of a U.S. intermediate holding company. In light of the requests received under this section following the initial compliance with the U.S. intermediate holding company requirement, the final rule shortens the time period for action by the Board from 180 days to 90 days. This process applies to both subpart N and subpart O intermediate holding companies.

As discussed above in sections VI and VII of this Supplementary Information, capital, liquidity and single-counterparty credit limits would apply to a U.S. intermediate holding company based on its risk profile. Subpart O of the enhanced prudential standards rule currently provides that a foreign banking organization that forms two or more U.S. intermediate holding companies would meet any threshold governing applicability of particular requirements by aggregating the total consolidated assets of all such U.S. intermediate holding companies. The final rule retains this aggregation requirement, but amends the requirement to consider the risk-based indicators discussed above.

In addition, the final rule provides a reservation of authority to permit a foreign banking organization to comply with the requirements of the enhanced prudential standards rule through a subsidiary foreign bank or company of the foreign banking organization. In making this determination, the Board would take into consideration the ownership structure of the foreign banking organization, including whether the foreign banking organization is owned or controlled by a foreign government; (2) whether the action would be consistent with the purposes of the enhanced prudential standards rule; and (3) any other factors that the Board determines are relevant. For example, if a top-tier foreign

banking organization is a sovereign wealth fund that controls a U.S. bank holding company, with prior approval of the Board, the U.S. bank holding company could comply with the requirements established under the enhanced prudential standards rule instead of the sovereign wealth fund, provided that doing so would not raise significant supervisory or policy issues and would be consistent with the purposes the enhanced prudential standards rule. The reservation of authority is intended to provide additional flexibility to address certain foreign banking organization structures the Board has encountered following the initial implementation of the rule, as well as to provide clarity and reduce burden for these institutions.

Finally, the proposal would have eliminated transition and initial applicability provisions that were relevant only for purposes of the initial adoption and implementation of the enhanced prudential standards rule. For example, the proposal would have removed paragraph (a)(2) of § 252.14 of part 252, which provides the required timing of the stress tests for each stress test cycle prior to October 1, 2014. The Board did not receive comments on these aspects of the proposals and is adopting them without change.

### **XII. Changes to Liquidity Buffer Requirements**

Banking organizations subject to the Board's enhanced prudential standards rule are required to maintain liquidity buffers composed of unencumbered highly liquid assets sufficient to cover projected net stressed cash-flow needs determined under firm-conducted stress scenarios over specified planning horizons.<sup>106</sup> At the time of the proposals, the rule stated that cash and securities issued or guaranteed by the U.S. government or a U.S. government-sponsored enterprise are highly liquid assets.<sup>107</sup> In addition, the rule required

<sup>106</sup> A bank holding company subject to the enhanced prudential standards rule must maintain a liquidity buffer sufficient to meet its projected net stressed cash-flow needs over a 30-day planning horizon. Similarly, a foreign banking organization subject to the enhanced prudential standards rule must maintain a liquidity buffer for a U.S. intermediate holding company, if any, sufficient to meet its projected net stressed cash-flow needs over a 30-day planning horizon. Separately, such a foreign banking organization must maintain a liquidity buffer for its collective U.S. branches and agencies sufficient to meet their net stressed cash-flow need over the first 14 days of a stress test with a 30-day planning horizon. See 12 CFR 252.35(b)(1) and 252.157(c)(2)–(3).

<sup>107</sup> 12 CFR 252.35(b)(3)(i)(A)–(B) and 12 CFR 252.157(c)(7)(i)(A)–(B). The foreign bank proposal requested comment on whether it would be appropriate to limit "cash" in the enhanced prudential standards rule to Reserve Bank balances

<sup>105</sup> See 12 CFR 252.2.

banking organizations to demonstrate to the satisfaction of the Board that any other asset meets specific liquidity criteria in order to use it to meet the rule's liquidity buffer requirements.<sup>108</sup>

The criteria for highly liquid assets set forth in the enhanced prudential standards rule are substantially similar to the qualifying criteria for HQLA under the LCR rule, which requires banking organizations covered by that rule to maintain an amount of HQLA sufficient to meet net stressed outflows over a 30-day period of stress.<sup>109</sup> Under the LCR rule, HQLA includes asset classes that are expected to be easily and immediately convertible into cash with little or no expected loss of value during a period of stress. Certain of the asset classes are also subject to additional, asset-specific requirements. In the preamble to the enhanced prudential standards rule, which was adopted prior to finalization of the LCR rule, the Board indicated that assets that would qualify as HQLA under the then-proposed LCR rule would be liquid under most scenarios, but a banking organization would still be required to demonstrate to the Board that the asset meets the criteria for highly liquid assets set forth in the enhanced prudential standards rule.

The foreign bank proposal sought comment on whether to more closely align the assets that qualify as highly liquid assets in the enhanced prudential standards rule with HQLA under the LCR rule. Specifically, the foreign bank proposal asked how, if at all, should the Board adjust the current definition of highly liquid assets in 12 CFR 252.35(b)(3) and 252.157(c)(7) of the enhanced prudential standards rule to improve alignment with the definition of HQLA. The foreign bank proposal also sought comment on whether the Board should incorporate other HQLA requirements in the enhanced prudential standards rule for highly liquid assets, such as the LCR rule's Level 2A and Level 2B liquid asset haircuts, the 40 percent composition limit on the total amount of Level 2 liquid assets, as well as the operational requirements set forth in 12 CFR 249.22.

Commenters generally supported aligning the definition of highly liquid assets with HQLA. However, commenters did not support including in the enhanced prudential standards

rule the haircuts and composition limits under the LCR rule. These commenters argued that firms should instead continue to evaluate all market and credit risk characteristics of assets eligible for inclusion as highly liquid assets, and apply market and credit risk haircuts consistent with the design of their internal liquidity stress test scenarios. Commenters also did not support adding the operational requirements for eligible HQLA under the LCR rule to the requirements for highly liquid assets under the enhanced prudential standards rule, arguing that firms should be able to apply independent judgement in assessing operational or other risks in the context of highly liquid assets.

Due to the similarity in asset qualification requirements under the two rules, the Board is amending the definition of highly liquid assets under the enhanced prudential standards rule to include all assets that would qualify as HQLA under LCR rule. The asset must satisfy all the qualifying criteria for HQLA, including, where appropriate, that the asset is liquid and readily marketable as defined in the LCR rule and meets the additional asset-specific criteria under the LCR rule.<sup>110</sup> In addition, the Board is amending the definition of highly liquid assets to include requirements that the banking organization subject to the rule demonstrate each asset is under the control of the management function that is charged with managing liquidity risk (liquidity management function) and demonstrate the capability to monetize the highly liquid assets. For banking organizations that are subject to the LCR rule, the liquidity management function that controls the highly liquid assets is intended to be the same function that controls eligible HQLA. For a foreign banking organization, the appropriate management function is the one that is charged with managing liquidity risk for its combined U.S. operations.

The Board is retaining, without change, the provision that permits other assets to qualify as highly liquid assets if the banking organization demonstrates to the satisfaction of the Board that these assets meet the criteria for highly liquid assets (Section C assets).<sup>111</sup> The Board is clarifying that

the banking organization cannot include Section C assets in its buffer until it has received approval from the Board.

As a result of the expansion of the definition of highly liquid assets to include HQLA, the Board expects other assets will qualify as highly liquid assets only in narrow circumstances. However, the Board is retaining this provision to provide a banking organization the opportunity to determine and demonstrate to the Board that other assets meet the criteria for highly liquid assets.<sup>112</sup> For example, it may be possible for a banking organization to demonstrate that an asset that is eligible as HQLA under another jurisdiction's LCR rule meets the requirements for Section C assets. The Board is not changing the definition of highly liquid assets or other asset requirements under the rule to include the haircuts or quantitative limits that exist in the LCR rule. The Board believes that the requirements in the enhanced prudential standards rule that banking organizations discount the fair market value of the asset to reflect any credit risk and market price volatility of the asset serve to address similar concerns as the LCR rule's haircuts while permitting a banking organization to perform its own assessment of potential stress. In addition, the enhanced prudential standard rule's diversification requirement that a liquidity buffer not contain significant concentrations of highly liquid assets by issuer, business sector, region, or other factor related to the banking organization's risk address similar risks as the LCR rule's quantitative limits to the composition of the HQLA amount, and permit a banking organization to consider its idiosyncratic risk profile and market conditions. Consistent with the LCR rule's composition limits on Level 2 and Level 2B liquid assets, the Board believes overreliance on Level 2 liquid assets that are generally not immediately convertible to cash and subject to greater price volatility, present safety and soundness concerns and increase the risks a banking organization would not be able to meet its obligations during a period of stress. The Board is clarifying that the diversification requirements in the enhanced prudential standards rule are

and foreign withdrawable reserves. The Board received a comment recommending that the Board not limit "cash" for purposes of the definition of highly liquid asset. The Board is not revising the term "cash" as part of this final rule.

<sup>108</sup> 12 CFR 252.35(b)(3)(i)(C) and 12 CFR 252.157(c)(7)(i)(C).

<sup>109</sup> 12 CFR part 249.

<sup>110</sup> See 12 CFR 249.20.

<sup>111</sup> See 12 CFR 252.35(d)(b)(i)(C) and 12 CFR 252.157(c)(7)(i)(C). The requirements for a Section C asset include that the bank holding company or foreign banking organization demonstrate to the satisfaction of the Board that the asset: (1) Has low credit risk and low market risk; (2) is traded in an active secondary two-way market that has committed market makers and independent bona fide offers to buy and sell so that a price reasonably

related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a reasonable time period conforming with trade custom; and (3) is a type of asset that investors historically have purchased in periods of financial market distress during which market liquidity has been impaired.

<sup>112</sup> *Id.*

intended to prevent such overreliance.<sup>113</sup>

Although commenters requested that the definition of highly liquid assets or other asset requirements not include the operational requirements for eligible HQLA prescribed in the LCR rule, the Board believes demonstrating the liquidity buffer is under the control of the liquidity management function and demonstrating the capability to monetize the liquidity buffer are fundamental risk management processes that ensure the liquidity buffer is available during times of stress. Specifically, these requirements are intended to ensure a banking organization can monetize highly liquid assets during the relevant stress scenario and have the proceeds available to the liquidity management function without conflicting with another business or risk management strategy, sending a negative signal to market participants, or adversely affecting its reputation or franchise. However, to address commenters' concern that banking organizations be allowed to apply independent judgement in assessing operational and other risks in the context of highly liquid assets, the Board is not incorporating the LCR rule's more prescriptive requirements for demonstrating the operational capability to control and monetize assets. The Board believes it is appropriate to allow for a greater range of risk management practices to demonstrate control or monetization capabilities for a firm's highly liquid asset buffer, consistent with the goal that the internal liquidity stress test be tailored to a firm's risk profile, size, and complexity. The Board is clarifying, however, that a banking organization's approach to demonstrating control and monetization capabilities under the LCR rule would also meet the requirements of the amended definition.

### **XIII. Changes to Company-Run Stress Testing Requirements for State Member Banks, Removal of the Adverse Scenario, and Other Technical Changes Proposed in January 2019**

In January 2019, the Board requested comment on a proposed rule that would amend the Board's stress testing rules, consistent with section 401 of EGRRCPA (stress testing proposal).<sup>114</sup>

<sup>113</sup> See 12 CFR 238.124(b)(3)(v) (covered savings and loan holding companies), 12 CFR 252.35(b)(3)(v) and 12 CFR 252.157(c)(7)(v). As discussed in Section VIII of this Supplementary Information, this final rule adopts the same liquidity risk management, stress testing and buffer requirements for covered savings and loan holding companies.

<sup>114</sup> 84 FR 4002 (February 14, 2019).

Prior to the passage of EGRRCPA, section 165(i) of the Dodd-Frank Act<sup>115</sup> required each state member bank with total consolidated assets of more than \$10 billion to conduct annual stress tests. In addition, section 165 required the Board to issue regulations that establish methodologies for conducting stress tests, which were required to include at least three different stress-testing scenarios: "baseline," "adverse," and "severely adverse."<sup>116</sup>

Section 401 of EGRRCPA amended certain aspects of the stress testing requirements applicable to state member banks under section 165(i) of the Dodd-Frank Act.<sup>117</sup> Specifically, 18 months after the date of enactment, section 401 of EGRRCPA raises the minimum asset threshold for application of the stress testing requirement from more than \$10 billion to more than \$250 billion in total consolidated assets; revises the requirement for state member banks to conduct stress tests "annually," and instead requires them to conduct stress tests "periodically." In addition, EGRRCPA amended section 165(i) to no longer require the Board's supervisory stress test and firms' company-run stress tests to include an "adverse" scenario, thus reducing the number of required stress test scenarios from three to two.

The stress testing proposal would have raised the minimum asset threshold for state member banks to conduct stress tests from more than \$10 billion to more than \$250 billion, and revised the frequency with which state member banks with assets greater than \$250 billion would have been required to conduct stress tests. In addition, the stress testing proposal would have removed the adverse scenario from the list of required scenarios in the Board's stress testing rules and the Board's Policy Statement on the Scenario Design Framework for Stress Testing. As discussed below, the Board received two comments on the stress testing proposal and is adopting the proposal without change.

In preparing the stress testing proposal and this aspect of the final rule, the Board coordinated closely with the FDIC and the OCC to help to ensure that the company-run stress testing requirements are consistent and comparable across depository institutions and depository institution holding companies, and to address any burden that may be associated with having multiple entities within one

organizational structure complying with different stress testing requirements.

#### *A. Minimum Asset Threshold for State Member Banks*

As described above, section 401 of EGRRCPA amends section 165 of the Dodd-Frank Act by raising the minimum asset threshold for state member banks required to conduct company-run stress tests from more than \$10 billion to more than \$250 billion. Consistent with EGRRCPA, the proposal would have raised this threshold such that only state member banks with total consolidated assets greater than \$250 billion would be required to conduct stress tests. The Board did not receive comments on this aspect of the proposal and is finalizing it without change.

#### *B. Frequency of Stress Testing for State Member Banks*

Section 401 of EGRRCPA revised the requirement under section 165 of the Dodd-Frank Act for state member banks to conduct stress tests, changing the required frequency from "annual" to "periodic." Under the stress testing proposal, state member banks with total consolidated assets of more than \$250 billion generally would have no longer been required to conduct stress tests annually; rather, they would be required to conduct stress tests once every other year. As an exception to the two-year cycle, state member banks that are subsidiaries of banking organizations subject to Category I or Category II standards would have been required to conduct a stress test on an annual basis. The proposed frequency was intended to provide the Board and the state member bank with information necessary to satisfy the purposes of stress testing, including: Assisting in an overall assessment of the state member bank's capital adequacy, identifying downside risks and the potential impact of adverse conditions on the state member bank's capital adequacy, and determining whether additional analytical techniques and exercises are appropriate for the state member bank to employ in identifying, measuring, and monitoring risks to the soundness of the state member bank.

One commenter asserted that the Board should not reduce the frequency of stress testing for any covered banks. Based on the Board's experience overseeing and reviewing the results of company-run stress testing since 2012, the Board believes that a two-year stress testing cycle generally would be appropriate for certain state member banks. Specifically, the state member banks that would be subject to a two-

<sup>115</sup> Public Law 111-203, 124 Stat. 1376 (2010).

<sup>116</sup> 12 U.S.C. 5365(i)(2)(C).

<sup>117</sup> Public Law 115-174, 132 Stat. 1296-1368 (2018).

year stress testing cycle under the proposal would not be the subsidiaries of larger, more complex firms, which can present greater risk and therefore merit closer monitoring. State member banks that are subsidiaries of larger, more complex firms would continue to be required to conduct stress tests on an annual basis. Accordingly, the final rule retains the frequency of company-run stress test requirements for state member banks set forth in the stress testing proposal without change. In addition, and as discussed above, the final rule provides the Board with the authority to adjust the required frequency for a holding company or state member bank subject to the Board's stress testing rules based on the company's financial condition, size, complexity, risk profile, scope of operations, activities, or risks to the U.S. economy. The final rule therefore provides flexibility to the Board to require more frequent company-run stress testing at the state member bank or holding company level, which would take into account the risk profile of the subsidiary state member bank, as needed.

Under the stress testing proposal, all state member banks that would conduct stress tests every other year would have been required to conduct stress tests in the same even numbered year (*i.e.*, the reporting years for these state member banks would be synchronized). By requiring these state member banks to conduct their stress tests in the same year, the proposal would continue to allow the Board to make comparisons across state member banks for supervisory purposes and assess macroeconomic trends and risks to the banking industry. The Board did not receive comments on this aspect of the stress testing proposal and is adopting it without change.

Under the stress testing proposal, a state member bank that was subject to a two-year stress test cycle would have become subject to an annual stress test if, for example, the parent bank holding company of the bank becomes a firm subject to Category I or II standards. The proposal would not have established a transition period in these cases. Accordingly, a state member bank that becomes subject to an annual stress test requirement would have been required to begin stress testing on an annual basis as of the next year. The Board did not receive comments on this aspect of the proposal and is adopting it without change.

### C. Removal of "Adverse" Scenario

As adopted, the Board's stress testing requirements—which are applicable to

state member banks, savings and loan holding companies, bank holding companies, U.S. intermediate holding companies of foreign banking organizations, and any nonbank financial company supervised by the Board—required the inclusion of an "adverse" scenario in the stress test. Section 401 of EGRRCPA amends section 165(i) of the Dodd-Frank Act to no longer require the Board to include an "adverse" scenario in the company-run stress test or its supervisory stress tests, reducing the number of required stress test scenarios from three to two. The stress testing proposal would have removed the "adverse" scenario from the list of required scenarios in the Board's stress testing rules. In addition, the proposal would have made conforming changes to the Board's Policy Statement on the Scenario Design Framework for Stress Testing to reflect the removal of the adverse scenario.

The "baseline" scenario represents a set of conditions that affect the U.S. economy or the financial condition of the banking organization, and that reflect the consensus views of the economic and financial outlook, and the "severely adverse" scenario is a more severe set of conditions and the most stringent of the scenarios. Because the "baseline" and "severely adverse" scenarios are designed to cover a full range of expected and stressful conditions, the "adverse" scenario has provided limited incremental information to the Board and market participants. Accordingly, the stress testing proposal would have maintained the requirement for a banking organization to conduct company-run stress tests under both a "baseline" and "severely adverse" scenario. In addition, the proposal would have redefined the "severely adverse" scenario to mean a set of conditions that affect the U.S. economy or the financial condition of a banking organization that overall are significantly more severe than those associated with the baseline scenario and may include trading or other additional components.

One commenter requested that the Board immediately eliminate certain stress testing requirements that would no longer be in effect upon finalization of the proposal or that are not appropriate for any firm of any size. Specifically, the commenter asserted that the Board should immediately eliminate the "adverse" scenario from the scenarios required for purposes of the Board's 2019 stress test cycle. Because the final rule is effective after the October 5, 2019, due date for mid-cycle company-run stress tests, and there is no additional requirement that

necessitates use of the "adverse" scenarios for the 2019 stress test cycle, the removal of this requirement will take effect for the 2020 stress test cycle.

### D. Review by Board of Directors

The enhanced prudential standards rule, as adopted, required the board of directors of a banking organization to "review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the company may warrant, but no less than annually."<sup>118</sup> The domestic proposal would have established similar requirements for covered savings and loan holding companies. The stress testing proposal would have revised the frequency of these requirements for banking organizations from "annual" to "no less than each year a stress test is conducted" in order to make review by the board of directors consistent with the supervised firm's stress testing cycle. The Board did not receive comments on this aspect of the proposal and is adopting it without change.

### E. Scope of Applicability for Savings and Loan Holding Companies

The stress testing proposal would have revised the company-run stress testing requirements for covered savings and loan holding companies included in the domestic proposal. As part of the domestic proposal, the Board generally proposed to apply prudential standards to certain covered savings and loan holding companies using the standards for determining prudential standards for large bank holding companies. Section 165(i)(2) of the Dodd-Frank Act, as amended by EGRRCPA, requires all financial companies that have total consolidated assets of more than \$250 billion to conduct periodic stress tests. Consistent with EGRRCPA, the Board proposed to revise the scope of applicability of the company-run stress testing requirements included in the domestic proposal to include all savings and loan holding companies that meet the criteria for Category II or Category III standards. The proposal also would have amended the proposed company-run stress test requirements to maintain the existing transition provision that provides that a savings and loan holding company would not be required to conduct its first stress test until after it is subject to minimum capital requirements. The Board did not receive comments on this aspect of the proposal and adopting it generally as proposed. The final rule applies company-run

<sup>118</sup> See 77 FR 62396 (October 12, 2012); 77 FR 62378 (October 12, 2012).

stress testing requirements to covered savings and loan holding companies subject to Category II or III standards, consistent with the requirements that apply to similarly-situated bank holding companies. In addition, the final rule applies company-run stress test requirements to all other savings and loan holding companies with total consolidated assets of \$250 billion or more, consistent with the Dodd-Frank Act, as amended by EGRRCPA. A savings and loan holding company is required to comply with company-run stress testing requirements after it is subject to minimum regulatory capital requirements. Covered savings and loan holding companies are subject to minimum regulatory capital requirements through the Board's capital rule.<sup>119</sup>

**XIV. Changes to Dodd-Frank Definitions**

The proposal would have made changes to the Board's implementation of certain definitions in the Dodd-Frank Act. Specifically, the Dodd-Frank Act directed the Board to define the terms

“significant bank holding company” and “significant nonbank financial company,” terms that are used in the credit exposure reports provision in section 165(d)(2).<sup>120</sup> The terms “significant nonbank financial company” and “significant bank holding company” are also used in section 113 of the Dodd-Frank Act, which specifies that FSOC must consider the extent and nature of a nonbank company's transactions and relationships with other “significant nonbank financial companies” and “significant bank holding companies,” among other factors, in determining whether to designate a nonbank financial company for supervision by the Board.<sup>121</sup> The Board previously defined “significant bank holding company” and “significant nonbank financial company” using \$50 billion minimum asset thresholds to conform with section 165.<sup>122</sup> In light of EGRRCPA's amendments, the Board proposed to amend these definitions to include minimum asset thresholds of \$100 billion, and make other

conforming edits in the Board's regulation on definitions in Title I of the Dodd-Frank Act.<sup>123</sup> The Board did not receive any comments on this aspect of the proposal and is finalizing it as proposed.

**XV. Reporting Requirements**

In the proposals, the Board proposed changes to the FR Y-14, FR Y-15, FR 2052a, FR Y-9C, FR Y-9LP, FR Y-7, and FR Y-7Q report forms. The Board received comments on changes to the FR Y-14, FR Y-15, and FR 2052a, which are discussed below. The Board did not receive comments on its proposed changes to the FR Y-9C, FR Y-9LP, FR Y-7 and FR Y-7Q, and is finalizing those changes as proposed.

Some commenters requested that the Board clearly identify in the preamble to the final rule the specific line items and forms that would be used to determine a banking organization's size and other risk-based indicators. Table II below indicates the line items that measure risk-based indicators under the final rule:

TABLE II—LINE ITEMS FOR RISK-BASED INDICATORS

	Reporting unit		
	U.S. holding companies	U.S. intermediate holding companies of foreign banking organizations	Combined U.S. operations of foreign banking organizations
<i>Size</i> .....	FR Y-15, Schedule A, Line Item M4	FR Y-15, Schedule H, Line Item M4, Column A.	FR Y-15, Schedule H, Line Item M4, Column B.
<i>Cross-jurisdictional activity</i>	FR Y-15, Schedule E, Line Item 5 ...	FR Y-15, Schedule L, Line Item 4, Column A.	FR Y-15, Schedule L, Line Item 4, Column B.
<i>Nonbank assets</i> .....	FR Y-15, Schedule A, Line Item M6	FR Y-15, Schedule H, Line Item M6, Column A.	FR Y-15, Schedule H, Line Item M6, Column B.
<i>Short-term wholesale funding.</i>	FR Y-15, Schedule G, Line Item 6 ...	FR Y-15, Schedule N, Line Item 6, Column A.	FR Y-15, Schedule N, Line Item 6, Column B.
<i>Off-balance sheet exposure.</i>	FR Y-15, Schedule A, Line Item M5	FR Y-15, Schedule H, Line Item M5, Column A.	FR Y-15, Schedule H, Line Item M5, Column B.

The proposal would have added two line items to Schedule A and Schedule H of the FR Y-15 to clarify the calculation of risk-based indicators: Line Item M4 would calculate total assets and Line Item M5 would calculate total off-balance sheet exposure. The Board did not receive specific comments on these line items and is adopting them as proposed.<sup>124</sup> To further clarify the line items for calculating risk-based indicators, the Board has added Line Item 5, Cross-jurisdictional activity, to Schedule E of the FR Y-15. The Board has also added Line Item M6, Total non-bank assets, on

Schedule A and Schedule H of the FR Y-15.

The Board received a number of general comments on compliance periods. Various commenters requested that the Board provide banking organizations subject to new or heightened reporting requirements under the proposals with extended compliance periods for such requirements. The Board is providing a phase-in time for banking organizations to prepare for new reporting requirements, as applicable. The compliance and transition periods for each form are discussed below.

The Board also received comments that were outside the scope of the proposals, such as suggested changes to forms that the Board did not propose to modify through these proposals. Some commenters requested tailoring of the proposed FR 2590, which relates to compliance with the single-counterparty credit limits rule. Proposed changes to the proposed FR 2590 will be addressed in a separate Board action. Commenters also requested a change to the FFIEC forms. The agencies are reviewing interagency forms and intend to propose changes to them to conform to EGRRCPA and this final rule.

<sup>119</sup> 12 CFR 217.

<sup>120</sup> 12 U.S.C. 5311(a)(7); 5365(d)(2). EGRRCPA changed credit exposure reports from a mandatory

to discretionary prudential standard under section 165.

<sup>121</sup> See 12 U.S.C. 5323.

<sup>122</sup> 12 CFR 242.4.

<sup>123</sup> 12 CFR part 242.

<sup>124</sup> Comments regarding the composition of the risk-based indicators are discussed in section V of this SUPPLEMENTARY INFORMATION.

A. FR Y-14

Consistent with EGRRCPA’s changes and the Board’s July 2018 statement relating to EGRRCPA,<sup>125</sup> the proposals would have revised the FR Y-14 series of reports (FR Y-14A, Y-14Q, and Y-14M) so that domestic bank holding companies and U.S. intermediate holding companies with less than \$100 billion in total consolidated assets would no longer be required to submit the forms. Under the proposals, domestic bank holding companies and U.S. intermediate holding companies with \$100 billion or more in total consolidated assets would continue to submit the FR Y-14 reports.

The proposal also would have required all covered savings and loan holding companies with \$100 billion or more in total consolidated assets to complete elements of the FR Y-14 series of reports that are used in conducting supervisory stress tests: (1) The FR Y-14M; (2) all schedules of the FR Y-14-Q except for Schedule C—Regulatory Capital Instruments and Schedule D—Regulatory Capital Transitions; and (3) Schedule E—Operational Risk of the FR Y-14A. The proposal would have required covered savings and loan holding companies subject to Category II or III standards to report the Form FR Y-14A Schedule A—Summary and Schedule F—Business Plan Changes with respect to company run stress testing.

Commenters argued that the Board should adjust various FR Y-14 reporting

requirements for banking organizations subject to the proposals. Commenters generally requested that the FR Y-14 be amended to provide reductions in burden for banking organizations, particularly those subject to Category III or IV standards. Some commenters asked the Board to revise the FR Y-14M and Y-14A for banking organizations subject to Category IV standards, by reducing the frequency of the Y-14M from monthly to quarterly and altering or eliminating certain Y-14A schedules and worksheets. These commenters also asked the Board to review the relevance of information requested on the Y-14Q for banking organizations subject to Category IV standards. Other commenters suggested that certain Y-14A sub-schedules should not be required for banking organizations subject to Category III standards. Some commenters requested that the Board simplify the Y-14A Summary schedule for all banking organizations.

The final rule adopts the changes to the FR Y-14 largely as proposed. The final rule maintains the existing FR Y-14 substantive reporting requirements in order to provide the Board with the data it needs to conduct supervisory stress testing and inform the Board’s ongoing monitoring and supervision of bank holding companies, covered savings and loan holding companies, and U.S. intermediate holding companies. However, as discussed in the proposals, the Board intends to provide greater flexibility to banking organizations

subject to Category IV standards in developing their annual capital plans and consider further changes to the FR Y-14 forms as part of a separate proposal. The Board has also revised the FR Y-14 instructions to remove references to the adverse scenario, consistent with the changes in this final rule.

The final rule does not finalize certain definitional changes to the FR Y-14 series of reports, however. The proposal would have made changes to the definitions of “large and complex” and “large and noncomplex” bank holding company to align with proposed changes in section 225.8(d)(9). The Board is not finalizing these changes as part of this final rule, and instead intends to consider these changes in conjunction with other changes to the capital plan rule as part of a separate capital plan proposal.

Commenters also requested that the Board provide an initial transition period for covered savings and loan holding companies to submit their first FR Y-14 reports. The final rule provides covered savings and loan holding companies with an extended amount of time to file their first reports. Table III details the submission date requirements for covered savings and loan holding companies with \$100 billion or more in total consolidated assets that will be submitting FR Y-14 reports under the final rule for the first time:

TABLE III—FIRST SUBMISSION DATES OF FR Y-14 FOR COVERED SAVINGS AND LOAN HOLDING COMPANIES

Form	First as-of date	First submission dates
FR Y-14A .....	12/31/2021	April 5, 2022.
FR Y-14Q .....	6/30/2020	90 days after quarter end for first two quarterly submissions; 65 days after quarter end for the third and fourth quarterly submissions.
FR Y-14M .....	6/30/2020	For the first three monthly submissions, 90 days after the month-end as-of date.

B. FR Y-15

The proposals would have modified the reporting panel and substantive requirements of the FR Y-15. First, the domestic proposal would have no longer required U.S. bank holding companies and covered savings and loan holding companies with \$50 billion or more, but less than \$100 billion, in total consolidated assets to file the FR Y-15. The foreign bank proposal would have further revised the reporting panels and scope of the FR Y-15. Currently, U.S. intermediate holding

companies with \$50 billion or more in total consolidated assets report the FR Y-15. Under the foreign bank proposal, foreign banking organizations with \$100 billion or more in combined U.S. assets, rather than U.S. intermediate holding companies, would have been required to submit the FR Y-15 with respect to their combined U.S. operations. Specifically, the proposal would have required a foreign banking organization to report information described in the FR Y-15 separately for its (i) U.S. branch and agency network, if any; (ii) U.S.

intermediate holding company, if any; and (iii) combined U.S. operations.

Some commenters supported the changes to the FR Y-15’s scope and reporting panel in the proposals. Commenters noted that the Board does not currently compile systemic risk data on foreign banking organizations that includes information on branch networks. These commenters argued that incorporating combined U.S. operations into the FR Y-15 would provide more complete information on a foreign banking organization’s

<sup>125</sup> See Board statement regarding the impact of the Economic Growth, Regulatory Relief, and

Consumer Protection Act, July 6, 2018, available at:

<https://www.federalreserve.gov/newsevents/pressreleases/bcreg20180706b.htm>.



financial profile, and that such a revision was overdue. However, other commenters opposed the changes. These commenters argued that the proposed reporting based on the combined U.S. operations was unjustified, and would require significant modifications to foreign banking organizations' existing reporting systems at a substantial cost. Some commenters also argued that the proposed FR Y-15 changes would disproportionately burden foreign banking organizations compared to domestic banking organizations, and therefore were inconsistent with the principle of national treatment.

To address these concerns, commenters suggested alternatives to the proposal. Some commenters stated that the FR Y-15 should not include any reporting on a combined U.S. operations basis. In particular, commenters argued that the Board should implement a tailoring framework that does not measure risk-based indicators across a foreign banking organization's combined U.S. operations, and eliminate FR Y-15 reporting on a combined U.S. operations basis. Other commenters suggested that a foreign banking organization should only be required to report information on its combined U.S. operations that is necessary for calculating the risk-based indicators. Commenters also recommended that the Board allow banking organizations to file a modified FR Y-15 with an option to prepare top-line items and not require more nuanced risk-based indicator calculations with respect to a particular indicator if a banking organization is well below the threshold for the risk-based indicator based on the top-line item. Another commenter also requested removal of the requirement to calculate risk-weighted assets at the combined U.S. operations level.

As commenters acknowledged, the proposal would have required foreign banking organizations to calculate size, cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding for their combined U.S. operations in order to determine the category of standards that would apply to a foreign banking organization at the level of its combined U.S. operations.<sup>126</sup> Most of these indicators are already reported by U.S. bank holding companies, covered savings and loan holding companies,

and U.S. intermediate holding companies. Requiring a foreign banking organization to report this information for its combined U.S. operations supports tailoring prudential standards based on the risk-profile of foreign banking organization's U.S. operations. This approach also establishes a central location for information on the risk-based indicators to help support the transparency of the framework.

The purpose and use of the FR Y-15 is broader than compliance with the tailoring framework, however. The FR Y-15 requests granular data on an institution's funding, structure, and activities that is consistent and comparable among institutions, and is often unavailable from other sources. The Board uses this information to monitor the systemic risk profile of banking organizations, as well as for other purposes.<sup>127</sup> Information on the combined U.S. operations of foreign banking organizations from the FR Y-15 will enhance the Board's ability to monitor and supervise the U.S. footprint of large foreign banking organizations and compare the risk profiles of large banking organizations. Having this data reported on the FR Y-15 also ensures that information on the combined U.S. operations of foreign banking organizations is available to the public, and thus can be used by the market to evaluate the systemic importance of domestic banking organizations and the U.S. operations of foreign banking organizations.

Accordingly, the final rule requires foreign banking organizations to report the FR Y-15 at the U.S. intermediate holding company and combined U.S. operations levels largely as proposed. The FR Y-15 as finalized is consistent with the principle of national treatment because it requires similarly-situated domestic holding companies and foreign banking organizations to report similar data on their U.S. footprint, taking into account the unique structures of foreign banking organizations. In response to comments, and because the Board is not applying categories of standards to the U.S. operations of foreign banking organizations based only on the risk profile of their U.S. branch and agency networks, the Board will not require foreign banking organizations to provide standalone data on their U.S. branches and agencies on the FR Y-15. Accordingly, the Board is modifying the

proposal by eliminating the U.S. branch and agency column on the FR Y-15, and instead will only require foreign banking organizations to complete the FR Y-15 in two columns for purposes of the final rule: Column A, U.S. intermediate holding companies, if any; and Column B, combined U.S. operations. Foreign banking organizations also will not be required to calculate average risk-weighted assets for their combined U.S. operations in Column B on Schedule N, line item 7. Because branches and agencies are not subject to capital requirements, this information would provide limited supervisory benefit and could be burdensome to compile and calculate.

Commenters requested a number of specific line item changes and instruction clarifications for completing the FR Y-15. These commenters requested more clarity in the General Instructions on the rule of consolidation for foreign banking organizations and foreign affiliate netting. The final form includes revised language in the General Instructions and certain schedules that is intended to further clarify and address questions regarding consolidation rules and netting. The Board also intends to continue to review the FR Y-15 instructions in light of the changes in this final rule and, if necessary, further refine the form and instructions to provide additional clarity on how to report line items for the combined U.S. operations of foreign banking organizations. Commenters requested that the Board permit foreign banking organizations to report size as a spot, rather than average measure, on proposed Schedule H of the FR Y-15 unless the foreign banking organization's U.S. intermediate holding company is subject to the supplementary leverage ratio. Averages provide a more reliable and risk-sensitive estimate of the banking organization's size over the period, and as such, the Board is finalizing the calculation of total exposure on Schedule H as proposed.

Commenters raised a number of issues and questions regarding proposed Schedule L—FBO Cross-Jurisdictional Activity Indicators. For purposes of reporting cross-jurisdictional activity, the proposal would have required a foreign banking organization to report assets and liabilities of the combined U.S. operations, U.S. intermediate holding company, and U.S. branch and agency network, excluding cross-jurisdictional liabilities to non-U.S. affiliates and cross-jurisdictional claims on non-U.S. affiliates to the extent that these claims are secured by eligible financial collateral. To effectuate this

<sup>126</sup> Standards that apply to the combined U.S. operations of a foreign banking organization include liquidity stress tests, risk management, and buffer requirements under the enhanced prudential standards rule; resolution planning requirements; and the reporting frequency of the FR 2052a.

<sup>127</sup> For example, the FR Y-15 is used to facilitate the implementation of GSIB capital surcharges, identify other institutions which may present significant systemic risk, and analyze the systemic risk implications of proposed mergers and acquisitions.

change, the proposal would have amended the FR Y-15 by adding new line items to proposed Schedule L and changed the accompanying FR Y-15 instructions. Comments related to the substance of the cross-jurisdictional indicator are discussed in section V. The Board is finalizing Schedule L substantively as proposed, with some technical edits to language to provide further clarity on how to report line items for a foreign banking organization's combined U.S. operations.

One commenter recommended expanding line item 4 on Schedule E—Cross-Jurisdictional Activity Indicators to separately identify deposits; trading liabilities; borrowings (including short-term borrowings, long-term debt, federal funds purchased, and repurchase agreements); accounts payable; and other liabilities. The commenter argued that such additional specificity would provide the Board and the public with additional insight into the nature of an institution's cross-jurisdictional liabilities without increasing reporting burden. The Board finds that line item 4 is reported with sufficient granularity to understand the risk profile of the banking organizations and is adopting it as proposed.

Commenters expressed concern about the amount of time required to establish systems necessary to collect information from combined U.S. operations of a foreign banking organization as well as with the accuracy and integrity of the data collected. Commenters also requested at minimum, a 12-month phase-in period to accommodate the expanded scope of the FR Y-15 reporting requirements, and that the first two quarterly FR Y-15 filings be prepared on a "best efforts" basis. To allow firms to develop reporting and data systems, the final rule provides a phase-in period to meet the expanded reporting requirements in the FR Y-15. Under the phase-in period, banking organizations will be required to report the first combined U.S. operations data on the FR Y-15 with an as-of date of June 30, 2020, and submit the data to the Board no later than August 19, 2020.

Under the foreign bank proposal, Schedule N—FBO Short-Term Wholesale Funding Indicator of the FR Y-15 would have required foreign banking organizations that report the FR 2052a daily to report the average weighted short-term wholesale funding values using daily data, and all other foreign banking organizations to report average values using monthly data. Some commenters requested that weighted short-term wholesale funding in Schedule N be reported using

monthly data for all foreign banking organizations. An average of day-end data points is a more accurate representation of a banking organization's ongoing reliance on wholesale funding. Accordingly, for foreign banking organizations that have sufficient liquidity risks that would require FR 2052a daily reporting, the final rule requires these banking organizations to report Schedule N on the FR Y-15 using daily data. For firms not subject to FR 2052a daily reporting, the Board is finalizing the rule for calculating weighted short-term wholesale funding as proposed.

The Board continues to evaluate whether the benefits of a more frequent average would be justified for these firms, particularly for firms that report the LCR on a daily basis, and may propose adjustments to the calculation frequency. Furthermore, the Board intends to monitor a firm's weighted short-term wholesale funding position at month-end relative to its position throughout the month through the supervisory process, and continues to have the authority to apply additional prudential standards based on the risk profile of a firm, including its liquidity risk profile.<sup>128</sup>

#### C. FR 2052a

The proposals would have modified the current reporting frequency and granularity of the FR 2052a to align with the proposed tailoring framework. Specifically, the proposals would have required U.S. bank holding companies and covered savings and loan holding companies, each with \$100 billion or more in total consolidated assets, or foreign banking organizations with combined U.S. assets of \$100 billion or more, to report FR 2052a data each business day if they were (i) subject to Category I or II standards, as applicable, or (ii) subject to Category III standards and had \$75 billion or more in weighted short-term wholesale funding (for foreign banking organizations, this would be measured at the level of the combined U.S. operations). All other domestic holding companies and foreign banking organizations would have been required to report the FR 2052a on a monthly basis. These changes would have increased the frequency of reporting for domestic banking organizations subject to Category II standards with less than \$700 billion in total consolidated assets, and domestic banking organizations subject to Category III standards with \$75 billion or more in weighted short-

term wholesale funding; both groups of banking organizations currently report the FR 2052a monthly. Similarly, the frequency of reporting would have changed for some foreign banking organizations. The proposals also would have simplified the FR 2052a reporting thresholds by eliminating the current criteria used to identify daily filers of the FR 2052a—for domestic holding companies, those firms with \$700 billion or more in total assets or \$10 trillion or more in assets under custody, and for foreign banking organizations, those firms included in the Large Institution Supervision Coordinating Committee portfolio—and replacing these criteria with the category framework.

A number of commenters requested that the Board reduce or eliminate proposed FR 2052a reporting requirements. Commenters requested that the Board modify the proposed FR 2052a reporting frequencies so that banking organizations subject to Category II and Category III standards would be subject to monthly or quarterly, rather than daily, reporting. Similarly, commenters argued that the Board should not expand the scope of daily FR 2052a reporting beyond its current reach, and that no banking organization should be subject to more frequent FR 2052a reporting under the proposals. Some commenters suggested that the requirement to report FR 2052a data each business day should not be based on the \$75 billion weighted short-term wholesale funding threshold, but instead on a higher short-term wholesale funding threshold, such as \$100 billion or \$125 billion. Commenters on the foreign proposal noted that certain foreign banking organizations would move from monthly to daily FR 2052a reporting under the proposal and argued that this was unjustified, as well as inconsistent with the principle of national treatment.

The Board is finalizing the FR 2052a generally as proposed, with certain modifications as discussed below. Daily FR 2052a reporting is appropriate for institutions subject to Category II standards or Category III standards with \$75 billion or more in weighted short-term wholesale funding. The Board uses liquidity data provided through FR 2052a reporting to monitor and assess the liquidity risks and resiliency of large banking organizations on an ongoing basis. The frequency and timeliness with which data is provided to supervisors should be commensurate with the scale and dynamic nature of a banking organization's liquidity risk. Liquidity stresses can materialize rapidly for banking organizations of all

<sup>128</sup> See 12 CFR 217.1(d); 12 CFR 249.2(a); 12 CFR 252.3(a).

sizes, but banking organizations with significant size and cross-jurisdictional activity in the United States may be more likely to face stress suddenly due to the scale of their funding and their operational complexity. Moreover, greater reliance on short-term wholesale funding may indicate heightened rollover risk and greater volatility in the funding profile of a banking organization or its U.S. operations. Banking organizations subject to Category II standards or Category III standards with \$75 billion or more in weighted short-term wholesale funding have liquidity risk profiles that present higher risk to both financial stability and safety and soundness. Therefore, supervisory monitoring through daily FR 2052a reporting is critical to ensure these banking organizations are maintaining appropriate levels of liquidity and supervisors have a detailed understanding of their funding sources. The Board is thus finalizing the FR 2052a criteria and reporting frequency as proposed for banking organizations subject to Category II or III standards.

Some commenters on the domestic proposal argued that banking organizations that engage in activities that present lower liquidity risk, such as custodial activities, should not be required to submit the FR 2052a daily. Liquidity stresses may arise from a broad range of sources and markets, and can be impactful for banking organizations that have a range of business models. Accordingly, the Board is not providing different FR 2052a reporting requirements for institutions that engage in custodial activities.

A number of commenters argued that banking organizations subject to Category IV standards should be subject to quarterly reporting to align with the institutions' liquidity stress testing requirements. Other commenters requested that the Board eliminate FR 2052a reporting for banking organizations subject to Category IV standards, or instead require these institutions to report on an alternative form, such as the previously-used FR 2052b. If banking organizations subject to Category IV standards report the FR 2052a but are not subject to an LCR requirement under the final rule, commenters requested that the Board clarify and confirm that FR 2052a reporting will not implicitly bind these firms to the LCR rule.

The Board uses FR 2052a information to analyze systemic and idiosyncratic liquidity risk and to inform supervisory processes. As a class, banking organizations that are subject to

Category IV standards tend to have more stable funding profiles, as measured by their generally lower level of weighted short-term wholesale funding, and lesser degrees of liquidity risk and operational complexity associated with size, cross-jurisdictional activity, nonbank assets, and off-balance sheet exposure compared to institutions subject to Categories I, II, or III standards. For this reason, the Board previously tailored data elements in the FR 2052a report based on the risk profiles for firms, and currently requires most banking organizations that would be subject to Category IV standards under the final rule to report the FR 2052a monthly rather than daily. The size of institutions subject to Category IV standards indicates that such institutions still present heightened liquidity risk relative to smaller banking organizations, however, and should continue to provide the information on the FR 2052a to ensure sufficient supervisory monitoring.

Similarly, because of their potential liquidity risks, banking organizations that would be subject to Category IV standards would still be required to develop comprehensive liquidity stress tests and short term daily cash flow projections under the enhanced prudential standards rule. The FR 2052b, which was discontinued in 2017, did not capture cash flow projections but collected information covering broad funding classifications by product, outstanding balance, and purpose, each segmented by maturity date. FR 2052a reporting aligns with the cash flows projection expectations and is substantially similar to the management information system a banking organization is required to develop to meet liquidity stress test requirements. The FR 2052a thus is a more comprehensive reporting form that is more appropriate for firms subject to the tailoring framework.

Accordingly, the Board is finalizing the FR 2052a largely as proposed, and requiring institutions subject to Category IV standards to report the form on a monthly basis. As discussed above, the purpose of FR 2052a reporting is broader than compliance with the LCR rule. In particular, the FR 2052a report collects data elements that enable the Federal Reserve to assess the cash flow profile of reporting firms. As a result, the Board notes that FR 2052a reporting will not be used to implicitly bind firms to an LCR rule.

Some commenters requested that banking organizations that would have been subject to monthly FR 2052a reporting be required to submit the form ten days after the as-of date (T+10)

rather than two days after the as-of date (T+2). Under the proposals, top-tier U.S. depository institution holding companies and foreign banking organizations subject to either (1) Category III standards with less than \$75 billion in weighted short-term wholesale funding or (2) Category IV standards with \$50 billion or more in weighted short-term wholesale funding would have filed the FR 2052a monthly on a T+2 basis; all other monthly filers would have filed on a T+10 basis. Some commenters noted that, based on estimated categories included in the proposal, more foreign banking organizations would be required to file on a T+2 basis when compared to domestic banking organizations. Under the interagency capital and liquidity final rule, all banking organizations subject to Category III standards continue to be required to compute the LCR each business day. For banking organizations subject to Category III standards that file the FR 2052a monthly, a T+2 submission is not expected to create significant additional burden and the final rule will continue to require submission on a T+2 basis for these firms. However, for all banking organizations subject to Category IV standards that are subject to FR 2052a reporting on a monthly basis, the Board will require these firms to submit data on a T+10 basis, regardless of their level of weighted short-term wholesale funding. Based on the lower liquidity risk profile of Category IV banking organizations, the benefits of T+2 reporting for these firms would not outweigh the burden for these institutions.

Commenters requested clarification that foreign banking organizations may use the FR 2052a to calculate both the LCR and proposed NSFR. Appendix VI within the FR 2052a instructions was developed to assist reporting firms subject to the LCR rule in mapping the provisions of the LCR rule to the unique data identifiers reported on FR 2052a. This mapping document is neither part of the LCR rule nor a component of the FR 2052a report, and therefore may be used at firms' discretion. Finally, the FR 2052a includes a number of additional technical edits to the form and appendices to conform to the substantive changes in this final rule.

#### *D. Summary of Reporting Effective Dates*

The following chart summarizes when banking organizations will be required to first determine their category under this final rule, as well as when amended reporting forms and new reporting requirements will take effect. As

reflected on the chart, U.S. bank holding companies, covered U.S. savings and loan holding companies, and U.S. intermediate holding companies should determine the category of standards that apply to them on the effective date of this final rule, using data from the FR Y-15 and FR Y-9LP reports as-of the quarter end dates for the previous four quarters. Foreign banking organizations will not be required to comply with the amended Schedule L of the FR Y-15 with respect to their U.S. intermediate holding companies until as-of June 30, 2020. Until that time, U.S. intermediate holding companies should determine their category under the tailoring

framework consistent with the cross-jurisdictional activity schedule on the FR Y-15 that previously applied to U.S. intermediate holding companies provided that, when a foreign banking organization reports on the amended Schedule L with respect to its U.S. intermediate holding company, the U.S. intermediate holding company's measure of cross-jurisdictional activity will be based on the amount reported on the amended Schedule L and will not be averaged with amounts of cross-jurisdictional activity previously reported by the U.S. intermediate holding company.

In contrast, foreign banking organizations will not be required to determine the category of standards applied to their combined U.S. operations until the submission date of the FR Y-15 following the June 30, 2020 as-of date. Accordingly, a foreign banking organization would be required to comply with the category of standards applied to its combined U.S. operations beginning on October 1, 2020. This delay is to account for foreign banking organizations filing the FR Y-15 on behalf of their combined U.S. operations for the first time as-of June 30, 2020.

TABLE IV—TIMELINE FOR INITIAL CATEGORIZATIONS AND REPORTING UNDER THE FINAL RULE

	Reporting unit			
	U.S. bank holding companies	Covered U.S. savings and loan holding companies	U.S. intermediate holding companies	Combined U.S. operations of foreign banking organizations
<i>Date for first categorization under 12 CFR 252.5 or 12 CFR 238.10.</i>	Effective date of final rule <sup>129</sup> .	Effective date of final rule <sup>130</sup> .	Effective date of final rule <sup>131</sup> .	Submission date of FR Y-15 as-of June 30, 2020.
<i>First as-of date for amended FR Y-15 .....</i>	June 30, 2020 .....	June 30, 2020 .....	June 30, 2020. <sup>132</sup>	
<i>First as-of date for amended FR 2052a ...</i>	June 30, 2020 .....	June 30, 2020 .....	October 1, 2020. <sup>133</sup>	
<i>First as-of date for amended FR Y-14A ...</i>	Next report after effective date of final rule.	December 31, 2021 .....	Next report after effective date of final rule.	N/A.
<i>First as-of date for amended FR Y-14Q ...</i>	Next report after effective date of final rule.	June 30, 2020 .....	Next report after effective date of final rule.	N/A.
<i>First as-of date for amended FR Y-14M ...</i>	Next report after effective date of final rule.	June 30, 2020 .....	Next report after effective date of final rule.	N/A.
<i>First as-of date for amended FR Y-9C .....</i>	Next report after effective date of final rule.	Next report after effective date of final rule.	Next report after effective date of final rule.	N/A.
<i>First as-of date for amended FR Y-9LP ...</i>	Next report after effective date of final rule.	Next report after effective date of final rule.	Next report after effective date of final rule.	N/A.
<i>First as-of date for amended FR Y-7Q .....</i>	N/A .....	N/A .....	Next report after effective date of final rule. <sup>134</sup>	
<i>First as-of date for amended FR Y-7 .....</i>	N/A .....	N/A .....	Next report after effective date of final rule (fiscal year-end 2020). <sup>135</sup>	

**XVI. Impact Assessment**

In general, U.S. banking organizations with less than \$100 billion in total consolidated assets and U.S. intermediate holding companies with less than \$100 billion in total consolidated assets would have

significantly reduced compliance costs, as under the final rule these firms are no longer subject to the enhanced prudential standards rule or the capital plan rule, and are no longer required to file FR Y-14, FR Y-15, or FR 2052a reports.<sup>136</sup> While these banking

organizations are no longer subject to internal liquidity stress testing and buffer requirements, these firms currently hold highly liquid assets well in excess of their current liquidity buffer requirements.

<sup>129</sup> A bank holding company should determine its initial category based on averages using the bank holding company's four most recent FR Y-15 and FR Y-9LP filings.

<sup>130</sup> A covered savings and loan holding company should determine its initial category based on averages using the covered savings and loan holding company's four most recent FR Y-15 and FR Y-9LP filings.

<sup>131</sup> A U.S. intermediate holding company should determine its initial category based on averages using the U.S. intermediate holding company's four most recent FR Y-15 and FR Y-9LP filings. When a foreign banking organization reports on the amended Schedule L with respect to its U.S. intermediate holding company, the U.S. intermediate holding company's measure of cross-

jurisdictional activity will be based on the amount reported on the amended Schedule L and will not be averaged with amounts of cross-jurisdictional activity previously reported by the U.S. intermediate holding company.

<sup>132</sup> As-of this date, top-tier foreign banking organizations will report the FR Y-15 on behalf of their U.S. intermediate holding company and combined U.S. operations.

<sup>133</sup> Until this date, a foreign banking organization should report the FR 2052a with the frequency and as-of date (Day T) as the foreign banking organization was required to report on September 1, 2019.

<sup>134</sup> Top-tier foreign banking organizations currently, and will continue to, report the FR Y-7Q.

<sup>135</sup> Top-tier foreign banking organizations currently, and will continue to, report the FR Y-7. The FR Y-7 is due annually at the end of a foreign banking organization's fiscal year.

<sup>136</sup> However, bank holding companies have not been complying with these requirements since July 6, 2018, when the Board issued a statement noting that it would no longer enforce these regulations or reporting requirements with respect to these firms. See Board statement regarding the impact of the Economic Growth, Regulatory Relief, and Consumer Protection Act, July 6, 2018, available at, <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20180706b1.pdf>.

For U.S. banking organizations with \$100 billion or more in total consolidated assets and foreign banking organizations with \$100 billion or more in combined U.S. assets, the Board expects the adjustments to the enhanced prudential standards under this final rule to reduce aggregate compliance costs with minimal effects on the safety and soundness of these firms and U.S. financial stability. With respect to reporting, foreign banking organizations will experience an increase in compliance costs as a result of having to report the information required under Form FR Y-15 at the level of their combined U.S. operations, and certain banking organizations with weighted short-term wholesale funding of \$75 billion or more that previously filed the FR 2052a on a monthly basis may experience an increase in compliance costs due to the increase in reporting frequency of the FR 2052a to daily. The interagency capital and liquidity final rule provides additional impact information.

#### A. Liquidity

The changes to liquidity requirements are expected to reduce compliance costs for banking organizations subject to Category IV standards by reducing the required frequency of internal liquidity stress tests from monthly to quarterly, and tailoring the liquidity risk management requirements to the risk profiles of these firms. The Board does not expect these changes to materially affect the liquidity buffer levels held by these banking organizations or their exposure to liquidity risk.

#### B. Stress Testing

First, while the Board expects the changes to stress testing requirements to have no material impact on the capital levels of U.S. banking organizations and U.S. intermediate holding companies with \$100 billion or more in total consolidated assets, the final rule will reduce compliance costs for those firms subject to Category III or IV capital standards. These firms were previously required to conduct company-run stress tests on a semi-annual basis. For U.S. banking organizations and U.S. intermediate holding companies subject to Category III standards, the final rule reduces this frequency to every other year. For U.S. banking organizations and U.S. intermediate holding companies subject to Category IV standards, the final rule removes the company-run stress test requirement altogether.<sup>137</sup> In

<sup>137</sup> Although the final rule would not modify the requirement for a U.S. banking organization or

addition, under the final rule, the Board will conduct supervisory stress tests of U.S. banking organizations and U.S. intermediate holding companies subject to Category IV standards on a two-year, rather than annual, cycle.

#### C. Single-Counterparty Credit Limits

The changes to the single-counterparty credit limits framework under the final rule are not expected to increase risks to safety and soundness or U.S. financial stability. The final rule removes U.S. intermediate holding companies subject to Category IV standards from the applicability of single-counterparty credit limits. While these firms would recognize reductions in compliance costs associated with these requirements, they typically do not present the risks that are intended to be addressed by the single-counterparty credit limits framework. In addition, the final rule removes the single-counterparty credit limits applicable to major U.S. intermediate holding companies; however, there currently are no U.S. intermediate holding companies that meet or exceed the asset size threshold for these requirements.

The final rule will increase the costs of compliance for U.S. intermediate holding companies with less than \$250 billion in total consolidated assets and that are subject to Category II or Category III standards, by extending the applicability of certain provisions under the single-counterparty credit limits framework to these firms. Specifically, as of January 1, 2021, U.S. intermediate holding companies with less than \$250 billion in total consolidated assets that subject to Category II or Category III standards will be subject to a net credit exposure limit equal to 25 percent of tier 1 capital, the treatment for investments in and exposures to certain special purpose entities and the economic interdependence and control relationship tests for purposes of aggregating exposures to connected counterparties.

#### D. Covered Savings and Loan Holding Companies

For covered savings and loan holding companies, the final rule increases compliance costs while reducing risks to the safety and soundness of these

intermediate holding company subject to Category IV standards to conduct an internal capital stress test as part of its annual capital plan submission, the Board intends to propose changes in the future capital plan proposal to align with the proposed removal of company-run stress testing requirements for these firms. See section IV.D of this

**SUPPLEMENTARY INFORMATION.**

firms. The Board expects the new requirements for covered savings and loan holding companies to meaningfully improve the risk management capabilities of these firms and their resiliency to stress, which furthers their safety and soundness.

A covered savings and loan holding company that is subject to Category II or III standards is required to conduct company-run stress tests, which would be a new requirement. In connection with the application of supervisory and company-run capital stress testing requirements, covered savings and loan holding companies with total consolidated assets of \$100 billion or more must report the FR Y-14 reports. In addition, the final rule requires a covered savings and loan holding company with total consolidated assets of \$100 billion or more to conduct internal liquidity stress testing and maintain a liquidity buffer. While covered savings and loan holding companies will incur costs for conducting internal liquidity stress testing, this requirement will serve to improve the capability of these firms to understand, manage, and plan for liquidity risk exposures across a range of conditions. Depending on its liquidity buffer requirement, a covered savings and loan holding company may need to increase the amount of liquid assets it holds or otherwise adjust its risk profile to reduce estimated net stressed cash-flow needs. Because covered savings and loan holding companies are already subject to the LCR rule, which also requires a firm to maintain a minimum amount of liquid assets to meet net outflows under a stress scenario, covered savings and loan holding companies generally will need to hold only an incremental amount—if any—above the levels already required to comply with the LCR rule.

### XVII. Administrative Law Matters

#### A. Paperwork Reduction Act Analysis

Certain provisions of the final rule contain “collections of information” within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board

reviewed the final rule under the authority delegated to the Board by OMB. The Board did not receive any specific comments on the PRA.

The final rule contains reporting requirements subject to the PRA. To implement these requirements, the Board is revising the (1) Complex Institution Liquidity Monitoring Report (FR 2052a; OMB No. 7100–0361), (2) Annual Report of Foreign Banking Organizations (FR Y–7; OMB No. 7100–0297), (3) Capital and Asset Report for Foreign Banking Organizations (FR Y–7Q; OMB No. 7100–0125), (4) Consolidated Financial Statements for Holding Companies (FR Y–9C; OMB No. 7100–0128), (5) Capital Assessments and Stress Testing (FR Y–14A/Q/M; OMB No. 7100–0341), and (6) Systemic Risk Report (FR Y–15; OMB No. 7100–0352).

The final rule also contains reporting and recordkeeping requirements subject to the PRA. To implement these requirements, the Board is revising the reporting and recordkeeping requirements associated with Regulations Y, LL and YY: (7) Reporting and Recordkeeping Requirements Associated with Regulation Y (Capital Plans) (FR Y–13; OMB No. 7100–0342), (8) Reporting Requirements Associated with Regulation LL (FR LL; OMB No. 7100–NEW), and (9) Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation YY (FR YY; OMB No. 7100–0350). Foreign banking organizations do not yet report all of the data for the measure of cross-jurisdictional activity and, accordingly, the burden estimates rely on firm categorizations using best available data.

Adopted Revision, With Extension, of the Following Information Collections

(1) *Report title:* Complex Institution Liquidity Monitoring Report.

*Agency form number:* FR 2052a.

*OMB control number:* 7100–0361.

*Effective Date:* June 30, 2020 (October 1, 2020 for foreign banking organizations with U.S. assets).

*Frequency:* Monthly, each business day (daily).

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

*Respondents:* U.S. bank holding companies, U.S. savings and loan holding companies, and foreign banking organizations.

*Estimated number of respondents:* Monthly: 26; Daily: 16.

*Estimated average hours per response:* Monthly: 120; Daily: 220.

*Estimated annual burden hours:* 917,440.

*General description of report:* The FR 2052a is used to monitor the overall liquidity profile of institutions supervised by the Board. These data provide detailed information on the liquidity risks within different business lines (e.g., financing of securities positions, prime brokerage activities). In particular, these data serve as part of the Board's supervisory surveillance program in its liquidity risk management area and provide timely information on firm-specific liquidity risks during periods of stress. Analyses of systemic and idiosyncratic liquidity risk issues are used to inform the Board's supervisory processes, including the preparation of analytical reports that detail funding vulnerabilities.

*Legal authorization and confidentiality:* The FR 2052a is authorized pursuant to section 5 of the Bank Holding Company Act (12 U.S.C. 1844), section 8 of the International Banking Act (12 U.S.C. 3106), section 10 of the Home Owners' Loan Act (HOLA) (12 U.S.C. 1467a), and section 165 of the Dodd-Frank Act (12 U.S.C. 5365) and is mandatory. Section 5(c) of the Bank Holding Company Act authorizes the Board to require bank holding companies (BHCs) to submit reports to the Board regarding their financial condition. Section 8(a) of the International Banking Act subjects foreign banking organizations to the provisions of the Bank Holding Company Act. Section 10(b)(2) of HOLA authorizes the Board to require savings and loan holding companies (SLHCs) to file reports with the Board concerning their operations. Section 165 of the Dodd-Frank Act requires the Board to establish prudential standards, including liquidity requirements, for certain BHCs and foreign banking organizations.

Financial institution information required by the FR 2052a is collected as part of the Board's supervisory process. Therefore, such information is entitled to confidential treatment under exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, the institution information provided by each respondent would not be otherwise available to the public and its disclosure could cause substantial competitive harm. Accordingly, it is entitled to confidential treatment under the authority of exemption 4 of the FOIA (5 U.S.C. 552(b)(4)), which protects from disclosure trade secrets and commercial or financial information.

*Current Actions:* To implement the reporting requirements of the final rule, the Board is modifying the current FR

2052a reporting frequency. The Board revised the FR 2052a (1) so that BHCs and SLHCs with less than \$100 billion in total consolidated assets would no longer have to report, (2) BHCs or SLHCs subject to Category II standards (\$700 billion or more in total consolidated assets or \$75 billion or more in cross jurisdictional activity) would have to report FR 2052a daily, and (3) BHCs or SLHCs subject to Category III standards with \$75 billion or more in weighted short-term wholesale funding would have to report FR 2052a daily, rather than monthly. Consistent with EGRRCPA's changes, the revisions would remove foreign banking organizations with less than \$100 billion in combined U.S. assets from the scope of FR 2052a reporting requirements. Additionally, the final rule would require foreign banking organizations with combined U.S. assets of \$100 billion or more to report the FR 2052a on a daily basis if they are (1) subject to Category II standards or (2) are subject to Category III standards and have \$75 billion or more in weighted short-term wholesale funding. All other foreign banking organizations with combined U.S. assets of \$100 billion or more would be subject to monthly filing requirements. The Board estimates that the revisions to the FR 2052a would decrease the respondent count by 6. Specifically, the Board estimates that the number of monthly filers would decrease from 36 to 26, but the number of daily filers would increase from 12 to 16. The Board estimates that revisions to the FR 2052a would increase the estimated annual burden by 205,600 hours. The final reporting forms and instructions are available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

(2) *Report title:* Annual Report of Holding Companies; Annual Report of Foreign Banking Organizations; Report of Changes in Organizational Structure; Supplement to the Report of Changes in Organizational Structure.

*Agency form number:* FR Y–6; FR Y–7; FR Y–10; FR Y–10E.

*OMB control number:* 7100–0297.

*Effective Date:* For the amended FR Y–7, the next report after effective date of final rule (fiscal year-end 2020).

*Frequency:* Annual and event-generated.

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

*Respondents:* Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and intermediate holding companies (IHCs) (collectively, holding companies (HCs)),

foreign banking organizations (FBOs), state member banks (SMBs) unaffiliated with a BHC, Edge Act and agreement corporations, and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only).

*Estimated number of respondents:* FR Y-6: 4,044; FR Y-7: 256; FR Y-10: 4,232; FR Y-10E: 4,232.

*Estimated average hours per response:* FR Y-6: 5.5; FR Y-7: 4.5; FR Y-10: 2.5; FR Y-10E: 0.5.

*Estimated annual burden hours:* FR Y-6: 22,242; FR Y-7: 1,152; FR Y-10: 43,233; FR Y-10E: 2,116.

*General description of report:* The FR Y-6 is an annual information collection submitted by top-tier domestic HCs and FBOs that are non-qualifying. It collects financial data, an organization chart, verification of domestic branch data, and information about shareholders. The Federal Reserve uses the data to monitor HC operations and determine HC compliance with the provisions of the BHC Act, Regulation Y (12 CFR part 225), the Home Owners' Loan Act (HOLA), Regulation LL (12 CFR part 238), and Regulation YY (12 CFR part 252).

The FR Y-7 is an annual information collection submitted by FBOs that are qualifying to update their financial and organizational information with the Federal Reserve. The FR Y-7 collects financial, organizational, shareholder, and managerial information. The Federal Reserve uses the information to assess an FBO's ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws and regulations.

The FR Y-10 is an event-generated information collection submitted by FBOs; top-tier HCs; securities holding companies as authorized under Section 618 of the Dodd-Frank Act (12 U.S.C. 1850a(c)(1)); state member banks unaffiliated with a BHC; Edge and agreement corporations that are not controlled by a member bank, a domestic BHC, or an FBO; and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only) to capture changes in their regulated investments and activities. The Federal Reserve uses the data to monitor structure information on subsidiaries and regulated investments of these entities engaged in banking and nonbanking activities.

The FR Y-10E is an event-driven supplement that may be used to collect additional structural information deemed to be critical and needed in an expedited manner.

*Legal authorization and confidentiality:* These information collections are mandatory as follows:

*FR Y-6:* Section 5(c)(1)(A) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844(c)(1)(A)); sections 8(a) and 13(a) of the International Banking Act (IBA) (12 U.S.C. 3106(a) and 3108(a)); sections 11(a)(1), 25, and 25A of the Federal Reserve Act (FRA) (12 U.S.C. 248(a)(1), 602, and 611a); and sections 113, 165, 312, 618, and 809 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)).

*FR Y-7:* Sections 8(a) and 13(a) of the IBA (12 U.S.C. 3106(a) and 3108(a)); sections 113, 165, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)).

*FR Y-10 and FR Y-10E:* Sections 4(k) and 5(c)(1)(A) of the BHC Act (12 U.S.C. 1843(k), and 1844(c)(1)(A)); section 8(a) of the IBA (12 U.S.C. 3106(a)); sections 11(a)(1), 25(7), and 25A of the FRA (12 U.S.C. 248(a)(1), 321, 601, 602, 611a, 615, and 625); sections 113, 165, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)); and section 10(c)(2)(H) of the Home Owners' Loan Act (HOLA) (12 U.S.C. 1467a(c)(2)(H)).

Except as discussed below, the data collected in the FR Y-6, FR Y-7, FR Y-10, and FR Y-10E are generally not considered confidential. With regard to information that a banking organization may deem confidential, the institution may request confidential treatment of such information under one or more of the exemptions in the Freedom of Information Act (FOIA) (5 U.S.C. 552). The most likely case for confidential treatment will be based on FOIA exemption 4, which permits an agency to exempt from disclosure "trade secrets and commercial or financial information obtained from a person and privileged and confidential" (5 U.S.C. 552(b)(4)). To the extent an institution can establish the potential for substantial competitive harm, such information would be protected from disclosure under the standards set forth in *National Parks & Conservation Association v. Morton*, 498 F.2d 765 (D.C. Cir. 1974). In particular, the disclosure of the responses to the certification questions on the FR Y-7 may interfere with home country regulators' administration, execution, and disclosure of their stress test regime and its results, and may cause substantial competitive harm to the FBO providing the information, and thus this information may be protected from disclosure under FOIA exemption 4. Exemption 6 of FOIA might also apply

with regard to the respondents' submission of non-public personal information of owners, shareholders, directors, officers and employees of respondents. Exemption 6 covers "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. 552(b)(6)). All requests for confidential treatment would need to be reviewed on a case-by-case basis and in response to a specific request for disclosure.

*Current Actions:* The Board revised item 5 on the FR Y-7, Regulation YY Compliance for the Foreign Banking Organization (FBO), to align the reporting form with the applicability thresholds set forth in the final rules and other regulatory changes that are consistent with the Board's July 2018 statement concerning EGRRCPA. The Board estimates that revisions to the FR Y-7 would not impact the respondent count, but the estimated average hours per response would decrease from 6 hours to 4.5 hours. The Board estimates that revisions to the FR Y-7 would decrease the estimated annual burden by 384 hours. The final reporting forms and instructions are available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

(3) *Report title:* Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, and Capital and Asset Report for Foreign Banking Organizations.

*Agency form number:* FR Y-7N, FR Y-7NS, and FR Y-7Q.

*OMB control number:* 7100-0125.

*Effective Date:* For the amended FR Y-7Q, the next report after effective date of final rule.

*Frequency:* Quarterly and annually.

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

*Respondents:* Foreign banking organizations (FBOs).

*Estimated number of respondents:* FR Y-7N (quarterly): 35; FR Y-7N (annual): 19; FR Y-7NS: 22; FR Y-7Q (quarterly): 130; FR Y-7Q (annual): 29.

*Estimated average hours per response:* FR Y-7N (quarterly): 7.6; FR Y-7N (annual): 7.6; FR Y-7NS: 1; FR Y-7Q (quarterly): 2.25; FR Y-7Q (annual): 1.5.

*Estimated annual burden hours:* FR Y-7N (quarterly): 1,064; FR Y-7N (annual): 144; FR Y-7NS: 22; FR Y-7Q (quarterly): 1,170; FR Y-7Q (annual): 44.

*General description of report:* The FR Y-7N and the FR Y-7NS are used to assess an FBO's ability to be a continuing source of strength to its U.S.

operations and to determine compliance with U.S. laws and regulations. FBOs file the FR Y-7N quarterly or annually or the FR Y-7NS annually predominantly based on asset size thresholds. The FR Y-7Q is used to assess consolidated regulatory capital and asset information from all FBOs. The FR Y-7Q is filed quarterly by FBOs that have effectively elected to become or be treated as a U.S. financial holding company (FHC) and by FBOs that have total consolidated assets of \$50 billion or more, regardless of FHC status. All other FBOs file the FR Y-7Q annually.

**Legal authorization and confidentiality:** With respect to FBOs and their subsidiary IHCs, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require FBOs and any subsidiary thereof to file the FR Y-7N reports, and the FR Y-7Q.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of the FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of the FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

**Current Actions:** The final rule would amend the FR Y-7Q to align with revisions to the enhanced prudential standards rule. Previously, top-tier foreign banking organizations with \$50 billion or more in total consolidated assets were required to report Part 1B—Capital and Asset Information for Top-tier Foreign Banking Organizations with Consolidated Assets of \$50 billion or more. The final rule would now require top-tier foreign banking organizations that are subject to either sections 252.143 or 252.154 of the enhanced prudential standards rule to report Part 1B. The Board estimates that revisions to the FR Y-7Q would not impact the respondent count, but the estimated

average hours per response would decrease from 3 hours to 2.25 hours for quarterly filers. The Board estimates that revisions to the FR Y-7Q would decrease the estimated annual burden by 390 hours. The final reporting forms and instructions are available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

(4) **Report title:** Consolidated Financial Statements for Holding Companies.

**Agency form number:** FR Y-9C, FR Y-9LP, FR Y-9SP, FR Y-9ES, and FR Y-9CS.

**OMB control number:** 7100-0128.

**Effective Date:** For amended FR Y-9C and FR Y-9LP, next report after effective date of final rule.

**Frequency:** Quarterly, semiannually, and annually.

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

**Respondents:** Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. Intermediate Holding Companies (IHCs) (collectively, holding companies (HCs)).

**Estimated number of respondents:** FR Y-9C (non-advanced approaches holding companies): 344; FR Y-9C (advanced approached holding companies): 19; FR Y-9LP: 434; FR Y-9SP: 3,960; FR Y-9ES: 83; FR Y-9CS: 236.

**Estimated average hours per response:** FR Y-9C (non-advanced approaches holding companies): 46.34; FR Y-9C (advanced approached holding companies): 47.59; FR Y-9LP: 5.27; FR Y-9SP: 5.40; FR Y-9ES: 0.50; FR Y-9CS: 0.50.

**Estimated annual burden hours:** FR Y-9C (non advanced approaches holding companies): 63,764; FR Y-9C (advanced approached holding companies): 3,617; FR Y-9LP: 9,149; FR Y-9SP: 42,768; FR Y-9ES: 42; FR Y-9CS: 472.

**General description of report:** The FR Y-9 family of reporting forms continues to be the primary source of financial data on HCs on which examiners rely between on-site inspections. Financial data from these reporting forms is used to detect emerging financial problems, review performance, conduct pre-inspection analysis, monitor and evaluate capital adequacy, evaluate HC mergers and acquisitions, and analyze an HC's overall financial condition to ensure the safety and soundness of its operations. The FR Y-9C, FR Y-9LP, and FR Y-9SP serve as standardized financial statements for the consolidated holding company. The Board requires HCs to provide standardized financial

statements to fulfill the Board's statutory obligation to supervise these organizations. The FR Y-9ES is a financial statement for HCs that are Employee Stock Ownership Plans. The Board uses the FR Y-9CS (a free-form supplement) to collect additional information deemed to be critical and needed in an expedited manner. HCs file the FR Y-9C on a quarterly basis, the FR Y-9LP quarterly, the FR Y-9SP semiannually, the FR Y-9ES annually, and the FR Y-9CS on a schedule that is determined when this supplement is used.

**Legal authorization and confidentiality:** The FR Y-9 family of reports is authorized by section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)), section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)), section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (12 U.S.C. 1850a(c)(1)), and section 165 of the Dodd-Frank Act (12 U.S.C. 5365). The obligation of covered institutions to report this information is mandatory.

With respect to FR Y-9LP, FR Y-9SP, FR Y-ES, and FR Y-9CS, the information collected would generally not be accorded confidential treatment. If confidential treatment is requested by a respondent, the Board will review the request to determine if confidential treatment is appropriate.

With respect to FR Y-9C, Schedule HI's item 7(g) "FDIC deposit insurance assessments," Schedule HC-P's item 7(a) "Representation and warranty reserves for 1-4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies," and Schedule HC-P's item 7(b) "Representation and warranty reserves for 1-4 family residential mortgage loans sold to other parties" are considered confidential. Such treatment is appropriate because the data is not publically available and the public release of this data is likely to impair the Board's ability to collect necessary information in the future and could cause substantial harm to the competitive position of the respondent. Thus, this information may be kept confidential under exemptions (b)(4) of the Freedom of Information Act, which exempts from disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552(b)(4)), and (b)(8) of the Freedom of Information Act, which exempts from disclosure information related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or



supervision of financial institutions (5 U.S.C. 552(b)(8)).

*Current Actions:* To implement the reporting requirements of the final rule, the Board is amending the FR Y–9C to clarify requirements for holding companies subject to Category III capital standards. The final rule amends those instructions to further clarify that the supplementary leverage ratio and countercyclical buffer also apply to Category III bank holding companies, Category III savings and loan holding companies, and Category III U.S. intermediate holding companies. The FR Y–9LP is revised to require covered savings and loan holding companies with total consolidated assets of \$100 billion or more to report total nonbank assets on Schedule PC–B, in order to determine whether the firm would be subject to Category III standards. The Board estimates that revisions to the FR Y–9C would increase the non AA HCs respondent count by 11 and decrease the AA HCs respondent count by 11. The Board estimates that revisions to the FR Y–9 would decrease the estimated annual burden by 55 hours. The final reporting forms and instructions are available on the Board’s public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

(5) *Report title:* Capital Assessments and Stress Testing.

*Agency form number:* FR Y–14A/Q/M.

*OMB control number:* 7100–0341.

*Effective Date:* For U.S. bank holding companies and U.S. intermediate holding companies, the next reports (FR Y–14A, Q, and M) after the effective date of final rule. For U.S. covered savings and loan holding companies June 30, 2020 (FR Y–14Q and FR Y–14M), and December 31, 2021 (FR Y–14A).

*Frequency:* Annually, semiannually, quarterly, and monthly.

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

*Respondents:* The respondent panel consists of any top-tier bank holding company (BHC) that has \$100 billion or more in total consolidated assets, as determined based on (1) the average of the firm’s total consolidated assets in the four most recent quarters as reported quarterly on the firm’s FR Y–9C or (2) the average of the firm’s total consolidated assets in the most recent consecutive quarters as reported quarterly on the firm’s FR Y–9Cs, if the firm has not filed an FR Y–9C for each of the most recent four quarters. The respondent panel also consists of any U.S. intermediate holding company (IHC). Reporting is required as of the

first day of the quarter immediately following the quarter in which the respondent meets this asset threshold, unless otherwise directed by the Board.

*Estimated number of respondents:* 38.

*Estimated average hours per response:*

FR Y–14A: Summary, 887; Macro Scenario, 31; Operational Risk, 18; Regulatory Capital Instruments, 21; Business Plan Changes, 16; and Adjusted Capital Plan Submission, 100. FR Y–14Q: Retail, 15; Securities, 13; PPNR, 711; Wholesale, 151; Trading, 1,926; Regulatory Capital Transitions, 23; Regulatory Capital Instruments, 54; Operational Risk, 50; MSR Valuation, 23; Supplemental, 4; Retail FVO/HFS, 15; Counterparty, 514; and Balances, 16. FR Y–14M: 1st Lien Mortgage, 516; Home Equity, 516; and Credit Card, 512. FR Y–14: Implementation, 7,200; Ongoing Automation Revisions, 480. FR Y–14 Attestation—Implementation, 4,800; Attestation On-going Audit and Review, 2,560.

*Estimated annual burden hours:* FR Y–14A: Summary, 67,412; Macro Scenario, 2,232; Operational Risk, 684; Regulatory Capital Instruments, 756; Business Plan Changes, 608; and Adjusted Capital Plan Submission, 500. FR Y–14Q: Retail, 2,280; Securities, 1,976; Pre-Provision Net Revenue (PPNR), 108,072; Wholesale, 22,952; Trading, 92,448; Regulatory Capital Transitions, 3,212; Regulatory Capital Instruments, 7,776; Operational risk, 7,600; Mortgage Servicing Rights (MSR) Valuation, 1,564; Supplemental, 608; Retail Fair Value Option/Held for Sale (Retail FVO/HFS), 1,620; Counterparty, 24,672; and Balances, 2,432. FR Y–14M: 1st Lien Mortgage, 222,912; Home Equity, 185,760; and Credit Card, 98,304. FR Y–14: Implementation, 14,400 and On-going Automation Revisions, 18,240. FR Y–14 Attestation On-going Audit and Review, 33,280.

*General description of report:* These collections of information are applicable to top-tier BHCs with total consolidated assets of \$100 billion or more and U.S. IHCs. This family of information collections is composed of the following three reports:

1. The FR Y–14A collects quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios either annually or semi-annually.

2. The quarterly FR Y–14Q collects granular data on various asset classes, including loans, securities, and trading assets, and PPNR for the reporting period.

3. The monthly FR Y–14M is comprised of three retail portfolio- and loan-level schedules, and one detailed address-matching schedule to supplement two of the portfolio and loan-level schedules.

The data collected through the FR Y–14A/Q/M reports provide the Board with the information and perspective needed to help ensure that large firms have strong, firm-wide risk measurement and management processes supporting their internal assessments of capital adequacy and that their capital resources are sufficient given their business focus, activities, and resulting risk exposures. The annual CCAR exercise complements other Board supervisory efforts aimed at enhancing the continued viability of large firms, including continuous monitoring of firms’ planning and management of liquidity and funding resources, as well as regular assessments of credit, market and operational risks, and associated risk management practices. Information gathered in this data collection is also used in the supervision and regulation of these financial institutions. To fully evaluate the data submissions, the Board may conduct follow-up discussions with, or request responses to follow up questions from, respondents. Respondent firms are currently required to complete and submit up to 18 filings each year: Two semi-annual FR Y–14A filings, four quarterly FR Y–14Q filings, and 12 monthly FR Y–14M filings. Compliance with the information collection is mandatory.

*Legal authorization and confidentiality:* The Board has the authority to require BHCs to file the FR Y–14A/Q/M reports pursuant to section 5 of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844), and to require the U.S. IHCs of FBOs to file the FR Y–14 A/Q/M reports pursuant to section 5 of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106). The Board has authority to require SLHCs to file the FR Y–14A/Q/M reports pursuant to section 10 of HOLA (12 U.S.C. 1467a).

The information collected in these reports is collected as part of the Board’s supervisory process, and therefore is afforded confidential treatment pursuant to exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publicly disclosed and the release of the data would likely cause substantial harm to

the competitive position of the respondent (5 U.S.C. 552(b)(4)). Determinations of confidentiality based on exemption 4 of FOIA would be made on a case-by-case basis.

**Current Actions:** To implement the reporting requirements of the final rule, the Board revised the FR Y-14 so that (1) BHCs with less than \$100 billion in total consolidated assets would no longer have to report and (2) covered SLHCs with \$100 billion or more in total consolidated assets are included in the reporting panel for certain FR Y-14 schedules. The Board revised the FR Y-14 threshold for U.S. intermediate holding companies that would be required to submit these forms, by increasing it to apply only U.S. intermediate holding companies with \$100 billion or more in total consolidated assets. U.S. intermediate holding companies below this size threshold would no longer be required to submit these forms. The Board has also made certain revisions to the FR Y-14 forms to eliminate references to the adverse scenario, consistent with other changes in this final rule. The Board estimates that revisions to the FR Y-14 would increase the reporting panel by 2 respondents. The Board estimates that revisions to the FR Y-14 would increase the estimated annual burden by 64,016 hours. The final reporting forms and instructions are available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

(6) **Report title:** Systemic Risk Report.  
**Agency form number:** FR Y-15.  
**OMB control number:** 7100-0352.  
**Effective Date:** June 30, 2020.  
**Frequency:** Quarterly.  
**Affected Public:** Businesses or other for-profit.

**Respondents:** U.S. bank holding companies (BHCs) and covered savings and loan holding companies (SLHCs) with \$100 billion or more in total consolidated assets, foreign banking organizations with \$100 billion or more in combined U.S. assets, and any BHC designated as a global systemically important bank holding company (GSIB) that does not otherwise meet the consolidated assets threshold for BHCs.

**Estimated number of respondents:** 43.  
**Estimated average hours per response:** 403.

**Estimated annual burden hours:** 69,316.

**General description of report:** The FR Y-15 quarterly report collects systemic risk data from U.S. bank holding companies (BHCs), and covered savings and loan holding companies (SLHCs) with total consolidated assets of \$100 billion or more, any BHC identified as

a global systemically important banking organization (GSIB) based on its method 1 score calculated as of December 31 of the previous calendar year, and foreign banking organizations with \$100 billion or more in combined U.S. assets. The Board uses the FR Y-15 data to monitor, on an ongoing basis, the systemic risk profile of subject institutions. In addition, the FR Y-15 is used to (1) facilitate the implementation of the GSIB surcharge rule, (2) identify other institutions that may present significant systemic risk, and (3) analyze the systemic risk implications of proposed mergers and acquisitions.

**Legal authorization and confidentiality:** The mandatory FR Y-15 is authorized by sections 163 and 165 of the Dodd-Frank Act (12 U.S.C. 5463 and 5365), the International Banking Act (12 U.S.C. 3106 and 3108), the Bank Holding Company Act (12 U.S.C. 1844), and HOLA (12 U.S.C. 1467a).

Most of the data collected on the FR Y-15 is made public unless a specific request for confidentiality is submitted by the reporting entity, either on the FR Y-15 or on the form from which the data item is obtained. Such information will be accorded confidential treatment under exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) if the submitter substantiates its assertion that disclosure would likely cause substantial competitive harm. In addition, items 1 through 4 of Schedules G and N of the FR Y-15, which contain granular information regarding the reporting entity's short-term funding, will be accorded confidential treatment under exemption 4 for observation dates that occur prior to the liquidity coverage ratio disclosure standard being implemented. To the extent confidential data collected under the FR Y-15 will be used for supervisory purposes, it may be exempt from disclosure under Exemption 8 of FOIA (5 U.S.C. 552(b)(8)).

**Current Actions:** Consistent with the final rule, the FR Y-15 has been amended to require U.S. bank holding companies and U.S. covered savings and loan holding companies with \$100 billion or more in total consolidated assets to file the form, as well as foreign banking organizations with \$100 billion or more in combined U.S. assets. These foreign banking organizations will file all schedules of the FR Y-15 on behalf of their U.S. intermediate holding companies (Column A) and combined U.S. operations (Column B). The final form includes others edits described further in the **SUPPLEMENTARY INFORMATION** sections.

The Board estimates that the changes to the FR Y-15 would increase the

respondent count by 6 respondents. The Board also estimates that the revisions to the FR Y-15 would increase the estimated average hours per response by 2 hours and would increase the estimated annual burden by 9,968 hours. The final reporting forms and instructions are available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

(7) **Report title:** Reporting and Recordkeeping Requirements Associated with Regulation Y (Capital Plans).

**Agency form number:** FR Y-13.  
**OMB control number:** 7100-0342.  
**Effective Date:** Effective date of final rule.

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

**Respondents:** BHCs and IHCs.  
**Estimated number of respondents:** 34.  
**Estimated average hours per response:** Annual capital planning reporting (225.8(e)(1)(ii)), 80 hours; data collections reporting (225.8(e)(3)), 1,005 hours; data collections reporting (225.8(e)(4)), 100 hours; review of capital plans by the Federal Reserve reporting (225.8(f)(3)(i)), 16 hours; prior approval request requirements reporting (225.8(g)(1), (3), & (4)), 100 hours; prior approval request requirements exceptions (225.8(g)(3)(iii)(A)), 16 hours; prior approval request requirements reports (225.8(g)(6)), 16 hours; annual capital planning recordkeeping (225.8(e)(1)(i)), 8,920 hours; annual capital planning recordkeeping (225.8(e)(1)(iii)), 100 hours.

**Estimated annual burden hours:** Annual capital planning reporting (225.8(e)(1)(ii)), 2,720 hours; data collections reporting (225.8(e)(3)), 25,125 hours; data collections reporting (225.8(e)(4)), 1,000 hours; review of capital plans by the Federal Reserve reporting (225.8(f)(3)(i)), 32 hours; prior approval request requirements reporting (225.8(g)(1), (3), & (4)), 2,300 hours; prior approval request requirements exceptions (225.8(g)(3)(iii)(A)), 32 hours; prior approval request requirements reports (225.8(g)(6)), 32 hours; annual capital planning recordkeeping (225.8(e)(1)(i)), 303,280 hours; annual capital planning recordkeeping (225.8(e)(1)(iii)), 3,400 hours.

**General description of report:** Regulation Y (12 CFR part 225) requires large bank holding companies (BHCs) to submit capital plans to the Federal Reserve on an annual basis and to require such BHCs to request prior approval from the Federal Reserve

under certain circumstances before making a capital distribution.

*Current Actions:* The final rule raises the threshold for application of § 225.8 from bank holding companies with \$50 billion or more in total consolidated assets to bank holding companies with \$100 billion or more in total consolidated assets. This change would reduce the panels for various provisions in § 225.8. The Board estimates that the revisions to the FR Y–13 would decrease the estimated annual burden by 28,115 hours.

(8) *Report title:* Reporting and Disclosure Requirements Associated with Regulation LL.

*Agency Form Number:* FR LL.

*OMB control number:* 7100–NEW.

*Effective Date:* Effective date of final rule.

*Frequency:* Biennial.

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

*Respondents:* Savings and loan holding companies.

*Estimated number of respondents:* 1,<sup>138</sup>

*Estimated average hours per response:* Reporting section 238.162b1ii, 80; Disclosure section 238.146 (initial setup), 150; Disclosure section 238.146, 60.

*Estimated annual burden hours:* Reporting section 238.162b1ii, 40; Disclosure section 238.146 (initial setup), 75; Disclosure section 238.146, 30.

*Description of the Information Collection:* Section 252.122(b)(1)(iii) of the Board's Regulation YY currently requires, unless the Board otherwise determines in writing, a foreign savings and loan holding company with more than \$10 billion in total consolidated assets that does not meet applicable home-country stress testing standards to report on an annual basis a summary of the results of the stress test to the Board.

*Legal authorization and confidentiality:* This information collection is authorized by section 10 of the Home Owners' Loan Act (HOLA) and section 165(i)(2) of the Dodd-Frank Act. The obligation of covered institutions to report this information is mandatory. This information would be disclosed publicly and, as a result, no issue of confidentiality is raised.

*Current Actions:* The Board is moving the requirement for foreign savings and loan holding companies currently in § 252.122(b)(1)(iii) of Regulation YY into § 238.162(b)(1)(ii) of Regulation LL. In doing so, the Board is amending the

frequency of the reporting requirement in proposed § 238.162(b)(1)(ii) from annual to at least biennial. The Board is also raising the threshold for applicability of section 238.162 from more than \$10 billion in total consolidated assets to more than \$250 billion in total consolidated assets.

(9) *Report title:* Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation YY (Enhanced Prudential Standards).

*Agency Form Number:* FR YY.

*OMB Control Number:* 7100–0350.

*Effective Date:* Effective date of final rule.

*Frequency:* Annual, semiannual, quarterly.

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

*Respondents:* State member banks, U.S. bank holding companies, nonbank financial companies, foreign banking organizations, U.S. intermediate holding companies, foreign saving and loan holding companies, and foreign nonbank financial companies supervised by the Board.

*Estimated number of respondents:* 23 U.S. bank holding companies with total consolidated assets of \$100 billion or more, 4 U.S. bank holding companies with total consolidated assets of \$50 billion or more but less than \$100 billion, 1 state member bank with total consolidated assets over \$250 billion, 11 U.S. intermediate holding companies with \$100 billion or more in total assets, 23 foreign banking organizations with total consolidated assets of more than \$50 billion but less than \$100 billion; 23 foreign banking organizations with total consolidated assets of \$100 billion or more but combined U.S. operations of at least \$50 billion but less than \$100 billion; 17 foreign banking organizations with total consolidated assets of \$100 billion or more and combined U.S. operations of \$100 billion or more.

*Current estimated annual burden:* 41,619 hours.

*Proposed revisions estimated annual burden:* (13,868) hours.

*Total estimated annual burden:* 27,751 hours.

*General description of report:* Section 165 of the Dodd-Frank Act, as amended by EGRRCPA, requires the Board to implement enhanced prudential standards for bank holding companies and foreign banking organizations with total consolidated assets of \$250 billion or more, and provides the Board with discretion to apply enhanced prudential standards to certain bank holding companies and foreign banking organizations with \$100 billion or more, but less than \$250 billion, in total

consolidated assets. The enhanced prudential standards include risk-based and leverage capital requirements, liquidity standards, requirements for overall risk management (including establishing a risk committee), stress test requirements, and debt-to-equity limits for companies that the Financial Stability Oversight Council has determined pose a grave threat to financial stability.

*Current Actions:* As described in this **SUPPLEMENTARY INFORMATION**, the Board is amending reporting, recordkeeping and disclosure requirements in Regulation YY to generally raise the thresholds for application of these requirements to state member banks, U.S. bank holding companies, U.S. intermediate holding companies, and foreign banking organizations, consistent with EGRRCPA's changes to section 165 of the Dodd-Frank.

#### B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a final rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis describing the impact of the proposed rule on small entities.<sup>139</sup> However, a final regulatory flexibility analysis is not required if the agency certifies that the final 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 of less than or equal to \$600 million that are independently owned and operated or owned by a holding company with less than or equal to \$600 million in total assets.<sup>140</sup> For the reasons described below and under section 605(b) of the RFA, the Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities. As of June 30, 2019, there were 2,976 bank holding companies, 133 savings and loan holding companies, and 537 state member banks that would fit the SBA's current definition of "small entity" for purposes of the RFA.

<sup>139</sup> 5 U.S.C. 601 *et seq.*

<sup>140</sup> See 13 CFR 121.201. Effective August 19, 2019, the Small Business Administration revised the size standards for banking organizations to \$600 million in assets from \$550 million in assets. See 84 FR 34261 (July 18, 2019). Consistent with the General Principles of Affiliation in 13 CFR 121.103, the Board counts the assets of all domestic and foreign affiliates when determining if the Board should classify a Board-supervised institution as a small entity.

<sup>138</sup> Currently, there are no foreign savings and loan holding companies in existence. For PRA purposes, "1" is used as a placeholder.

The Board is finalizing amendments to Regulations Q,<sup>141</sup> Y,<sup>142</sup> LL,<sup>143</sup> PP,<sup>144</sup> and YY<sup>145</sup> that would affect the regulatory requirements that apply to state member banks, U.S. bank holding companies, U.S. covered savings and loan holding companies, U.S. intermediate holding companies, foreign banking organizations, and foreign savings and loan holding companies with \$10 billion or more in total consolidated assets. These changes are consistent with EGRRCPA, which amended section 165 of the Dodd-Frank Act. The reasons and justification for the final rule are described above in more detail in this **SUPPLEMENTARY INFORMATION**.

The assets of institutions subject to this final rule substantially exceed the \$600 million asset threshold under which a banking organization is considered a “small entity” under SBA regulations. Because the final rule is not likely to apply to any depository institution or company with assets of \$600 million or less, it is not expected to apply to any small entity for purposes of the RFA. The Board does not believe that the final rule duplicates, overlaps, or conflicts with any other Federal rules. In light of the foregoing, the Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities supervised.

### *C. Riegle Community Development and Regulatory Improvement Act of 1994*

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),<sup>146</sup> in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must consider, consistent with principle 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. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new

requirements on IDIs generally to 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.<sup>147</sup>

The final rule imposes no additional reporting, disclosure, or other requirements on insured depository institutions, including small depository institutions, nor on the customers of depository institutions. The final rule would raise the minimum asset threshold for state member banks that would be required to conduct a stress test from \$10 billion to \$250 billion, would revise the frequency with which state member banks with assets greater than \$250 billion would be required to conduct stress tests, and would reduce the number of required stress test scenarios from three to two. The requirement to conduct, report, and publish a company-run stress testing is a previously existing requirement imposed by section 165 of the Dodd-Frank Act. Accordingly, the RCDRIA does not apply to the final rule.

### **List of Subjects**

#### *12 CFR Part 217*

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

#### *12 CFR Part 225*

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

#### *12 CFR Part 238*

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

#### *12 CFR Part 242*

Administrative practice and procedure, Holding companies, Nonbank financial companies.

#### *12 CFR Part 252*

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

### **Authority and Issuance**

For the reasons stated in the **SUPPLEMENTARY INFORMATION**, chapter II

of title 12 of the Code of Federal Regulations is amended as follows:

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

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

**Authority:** 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–1, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

### **Subpart H—Risk-Based Capital Surcharge for Global Systemically Important Bank Holding Companies**

■ 2. In § 217.400:

■ a. Revise paragraphs (b)(1), (b)(2) introductory text, and (b)(2)(i); and

■ b. Remove paragraph (b)(3).

The revisions read as follows:

#### **§ 217.400 Purpose and applicability.**

\* \* \* \* \*

(b) \* \* \*

(1) *General.* This subpart applies to a bank holding company that:

(i) Is an advanced approaches Board-regulated institution or a Category III Board-regulated institution;

(ii) Is not a consolidated subsidiary of a bank holding company; and

(iii) Is not a consolidated subsidiary of a foreign banking organization.

(2) *Effective date of calculation and surcharge requirements.* (i) A bank holding company identified in § 217.400(b)(1) is subject to § 217.402 of this part and must determine whether it qualifies as a global systemically important BHC by December 31 of the year immediately following the year in which the bank holding company becomes an advanced approaches Board-regulated institution or a Category III Board-regulated institution; and

\* \* \* \* \*

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

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

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

### **Subpart A—General Provisions**

■ 4. In § 225.8, revise paragraphs (b)(1)(i), (b)(2) and (3), and (c) to read as follows:

<sup>141</sup> 12 CFR part 217.

<sup>142</sup> 12 CFR part 225.

<sup>143</sup> 12 CFR part 238.

<sup>144</sup> 12 CFR part 242.

<sup>145</sup> 12 CFR part 252.

<sup>146</sup> 12 U.S.C. 4802(a).

<sup>147</sup> 12 U.S.C. 4802.

**§ 225.8 Capital planning.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) Any top-tier bank holding company domiciled in the United States with average total consolidated assets of \$100 billion or more (\$100 billion asset threshold);

\* \* \* \* \*

(2) *Average total consolidated assets.*

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

(3) *Ongoing applicability.* A bank holding company (including any successor bank holding company) that is subject to any requirement in this section shall remain subject to such requirements unless and until its total consolidated assets fall below \$100 billion for each of four consecutive quarters, as reported on the FR Y-9C and effective on the as-of date of the fourth consecutive FR Y-9C.

\* \* \* \* \*

(c) *Transition periods for certain bank holding companies.* (1) A bank holding company that meets the \$100 billion asset threshold (as measured under paragraph (b) of this section) on or before September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the next calendar year, unless that time is extended by the Board in writing.

(2) A bank holding company that meets the \$100 billion asset threshold after September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the second calendar year after the bank holding company meets the \$100 billion asset threshold, unless that time is extended by the Board in writing.

(3) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a bank holding company described in paragraph (c)(1) or (2) of this section to comply with any or all of the requirements in paragraph

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

\* \* \* \* \*

**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, 5365; 1813, 1817, 1829e, 1831i, 1972, 15 U.S.C. 78 l.

**Subpart A—General Provisions**

■ 6. In § 238.2, add paragraphs (v) through (ss) to read as follows:

**§ 238.2 Definitions.**

\* \* \* \* \*

(v) *Applicable accounting standards* means GAAP, international financial reporting standards, or such other accounting standards that a company uses in the ordinary course of its business in preparing its consolidated financial statements.

(w) *Average cross-jurisdictional activity* means the average of cross-jurisdictional activity for the four most recent calendar quarters or, if the banking organization has not reported cross-jurisdictional activity for each of the four most recent calendar quarters, the cross-jurisdictional activity for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

(x) *Average off-balance sheet exposure* means the average of off-balance sheet exposure for the four most recent calendar quarters or, if the banking organization has not reported total exposure and total consolidated assets for each of the four most recent calendar quarters, the off-balance sheet exposure for the most recent calendar quarter or average of the most recent quarters, as applicable.

(y) *Average total consolidated assets* means the average of total consolidated assets for the four most recent calendar quarters or, if the banking organization has not reported total consolidated assets for each of the four most recent calendar quarters, the total consolidated assets for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

(z) *Average total nonbank assets* means the average of total nonbank

assets for the four most recent calendar quarters or, if the banking organization has not reported total nonbank assets for each of the four most recent calendar quarters, the total nonbank assets for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

(aa) *Average weighted short-term wholesale funding* means the average of weighted short-term wholesale funding for each of the four most recent calendar quarters or, if the banking organization has not reported weighted short-term wholesale funding for each of the four most recent calendar quarters, the weighted short-term wholesale funding for the most recent quarter or average of the most recent calendar quarters, as applicable.

(bb) *Banking organization.* Banking organization means a covered savings and loan holding company that is:

(1) Incorporated in or organized under the laws of the United States or any State; and

(2) Not a consolidated subsidiary of a covered savings and loan holding company that is incorporated in or organized under the laws of the United States or any State.

(cc) *Category II savings and loan holding company* means a covered savings and loan holding company identified as a Category II banking organization pursuant to § 238.10.

(dd) *Category III savings and loan holding company* means a covered savings and loan holding company identified as a Category III banking organization pursuant to § 238.10.

(ee) *Category IV savings and loan holding company* means a covered savings and loan holding company identified as a Category IV banking organization pursuant to § 238.10.

(ff) *Covered savings and loan holding company* means a savings and loan holding company other than:

(1) A top-tier savings and loan holding company that is:

(i) A grandfathered unitary savings and loan holding company as defined in section 10(c)(9)(C) of the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*); and

(ii) As of June 30 of the previous calendar year, derived 50 percent or more of its total consolidated assets or 50 percent of its total revenues on an enterprise-wide basis (as calculated under GAAP) from activities that are not financial in nature under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k));

(2) A top-tier depository institution holding company that is an insurance underwriting company; or

(3)(i) A top-tier depository institution holding company that, as of June 30 of

the previous calendar year, held 25 percent or more of its total consolidated assets in subsidiaries that are insurance underwriting companies (other than assets associated with insurance for credit risk); and

(ii) For purposes of paragraph (ff)(3)(i) of this section, the company must calculate its total consolidated assets in accordance with GAAP, or if the company does not calculate its total consolidated assets under GAAP for any regulatory purpose (including compliance with applicable securities laws), the company may estimate its total consolidated assets, subject to review and adjustment by the Board of Governors of the Federal Reserve System.

(gg) *Cross-jurisdictional activity*. The cross-jurisdictional activity of a banking organization is equal to the cross-jurisdictional activity of the banking organization as reported on the FR Y-15.

(hh) *Foreign banking organization* has the same meaning as in § 211.21(o) of this chapter.

(ii) *FR Y-9C* means the Consolidated Financial Statements for Holding Companies reporting form.

(jj) *FR Y-9LP* means the Parent Company Only Financial Statements of Large Holding Companies.

(kk) *FR Y-15* means the Systemic Risk Report.

(ll) *GAAP* means generally accepted accounting principles as used in the United States.

(mm) *Off-balance sheet exposure*. The off-balance sheet exposure of a banking organization is equal to:

(1) The total exposure of the banking organization, as reported by the banking organization on the FR Y-15; minus

(2) The total consolidated assets of the banking organization for the same calendar quarter.

(nn) *State* means any state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

(oo) *Total consolidated assets*. Total consolidated assets of a banking organization are equal to its total consolidated assets calculated based on the average of the balances as of the close of business for each day for the calendar quarter or an average of the balances as of the close of business on each Wednesday during the calendar quarter, as reported on the FR Y-9C.

(pp) *Total nonbank assets*. Total nonbank assets of a banking organization is equal to the total

nonbank assets of such banking organization, as reported on the FR Y-9LP.

(qq) *U.S. government agency* means an agency or instrumentality of the United States whose obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States.

(rr) *U.S. government-sponsored enterprise* means an entity originally established or chartered by the U.S. government to serve public purposes specified by the U.S. Congress, but whose obligations are not explicitly guaranteed by the full faith and credit of the United States.

(ss) *Weighted short-term wholesale funding* is equal to the weighted short-term wholesale funding of a banking organization, as reported on the FR Y-15.

■ 7. Add § 238.10 to subpart A to read as follows:

**§ 238.10 Categorization of banking organizations.**

(a) *General*. A banking organization with average total consolidated assets of \$100 billion or more must determine its category among the three categories described in paragraphs (b) through (d) of this section at least quarterly.

(b) *Category II*. (1) A banking organization is a Category II banking organization if the banking organization has:

(i) \$700 billion or more in average total consolidated assets; or

(ii)(A) \$75 billion or more in average cross-jurisdictional activity; and

(B) \$100 billion or more in average total consolidated assets.

(2) After meeting the criteria in paragraph (b)(1) of this section, a banking organization continues to be a Category II banking organization until the banking organization has:

(i)(A) Less than \$700 billion in total consolidated assets for each of the four most recent calendar quarters; and

(B) Less than \$75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters; or

(ii) Less than \$100 billion in total consolidated assets for each of the four most recent calendar quarters.

(c) *Category III*. (1) A banking organization is a Category III banking organization if the banking organization:

(i) Has:

(A) \$250 billion or more in average total consolidated assets; or

(B) \$100 billion or more in average total consolidated assets and at least:

(1) \$75 billion in average total nonbank assets;

(2) \$75 billion in average weighted short-term wholesale funding; or

(3) \$75 billion in average off-balance sheet exposure; and

(ii) Is not a Category II banking organization.

(2) After meeting the criteria in paragraph (c)(1) of this section, a banking organization continues to be a Category III banking organization until the banking organization:

(i) Has:

(A) Less than \$250 billion in total consolidated assets for each of the four most recent calendar quarters;

(B) Less than \$75 billion in total nonbank assets for each of the four most recent calendar quarters;

(C) Less than \$75 billion in weighted short-term wholesale funding for each of the four most recent calendar quarters; and

(D) Less than \$75 billion in off-balance sheet exposure for each of the four most recent calendar quarters; or

(ii) Has less than \$100 billion in total consolidated assets for each of the four most recent calendar quarters; or

(iii) Meets the criteria in paragraph (b)(1) of this section to be a Category II banking organization.

(d) *Category IV*. (1) A banking organization with average total consolidated assets of \$100 billion or more is a Category IV banking organization if the banking organization:

(i) Is not a Category II banking organization; and

(ii) Is not a Category III banking organization.

(2) After meeting the criteria in paragraph (d)(1) of this section, a banking organization continues to be a Category IV banking organization until the banking organization:

(i) Has less than \$100 billion in total consolidated assets for each of the four most recent calendar quarters;

(ii) Meets the criteria in paragraph (b)(1) of this section to be a Category II banking organization; or

(iii) Meets the criteria in paragraph (c)(1) of this section to be a Category III banking organization.

■ 8. Add subpart M, consisting of §§ 238.118 and 238.119, to read as follows:

**Subpart M—Risk Committee Requirement for Covered Savings and Loan Holding Companies With Total Consolidated Assets of \$50 Billion or More and Less Than \$100 Billion**

**§238.118 Applicability.**

(a) *General applicability*. A covered savings and loan bank holding company must comply with the risk-committee requirements set forth in this subpart beginning on the first day of the ninth quarter following the date on which its

average total consolidated assets equal or exceed \$50 billion.

(b) *Cessation of requirements.* A covered savings and loan holding company will remain subject to the requirements of this subpart until the earlier of the date on which:

(1) Its total consolidated assets are below \$50 billion for each of four consecutive calendar quarters; and

(2) It becomes subject to the requirements of subpart N of this part.

**§ 238.119 Risk committee requirement for covered savings and loan holding companies with total consolidated assets of \$50 billion or more.**

(a) *Risk committee*—(1) *General.* A covered savings and loan holding company subject to this subpart must maintain a risk committee that approves and periodically reviews the risk-management policies of the covered savings and loan holding company's global operations and oversees the operation of the company's global risk-management framework.

(2) *Risk-management framework.* The covered savings and loan holding company's global risk-management framework must be commensurate with its structure, risk profile, complexity, activities, and size and must include:

(i) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for its global operations; and

(ii) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(A) Processes and systems for identifying and reporting risks and risk-management deficiencies, including regarding emerging risks, and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies for its global operations;

(B) Processes and systems for establishing managerial and employee responsibility for risk management;

(C) Processes and systems for ensuring the independence of the risk-management function; and

(D) Processes and systems to integrate risk management and associated controls with management goals and its compensation structure for its global operations.

(3) *Corporate governance requirements.* The risk committee must:

(i) Have a formal, written charter that is approved by the covered savings and loan holding company's board of directors;

(ii) Be an independent committee of the board of directors that has, as its

sole and exclusive function, responsibility for the risk-management policies of the covered savings and loan holding company's global operations and oversight of the operation of the company's global risk-management framework;

(iii) Report directly to the covered savings and loan holding company's board of directors;

(iv) Receive and review regular reports on a not less than a quarterly basis from the covered savings and loan holding company's chief risk officer provided pursuant to paragraph (b)(3)(ii) of this section; and

(v) Meet at least quarterly, or more frequently as needed, and fully document and maintain records of its proceedings, including risk-management decisions.

(4) *Minimum member requirements.* The risk committee must:

(i) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(ii) Be chaired by a director who:

(A) Is not an officer or employee of the covered savings and loan holding company and has not been an officer or employee of the covered savings and loan holding company during the previous three years;

(B) Is not a member of the immediate family, as defined in § 238.31(b)(3), of a person who is, or has been within the last three years, an executive officer of the covered savings and loan holding company, as defined in § 215.2(e)(1) of this chapter; and

(C)(1) Is an independent director under Item 407 of the Securities and Exchange Commission's Regulation S-K (17 CFR 229.407(a)), if the covered savings and loan holding company has an outstanding class of securities traded on an exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) (national securities exchange); or

(2) Would qualify as an independent director under the listing standards of a national securities exchange, as demonstrated to the satisfaction of the Board, if the covered savings and loan holding company does not have an outstanding class of securities traded on a national securities exchange.

(b) *Chief risk officer*—(1) *General.* A covered savings and loan holding company subject to this subpart must appoint a chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

(2) *Responsibilities.* (i) The chief risk officer is responsible for overseeing:

(A) The establishment of risk limits on an enterprise-wide basis and the monitoring of compliance with such limits;

(B) The implementation of and ongoing compliance with the policies and procedures set forth in paragraph (a)(2)(i) of this section and the development and implementation of the processes and systems set forth in paragraph (a)(2)(ii) of this section; and

(C) The management of risks and risk controls within the parameters of the company's risk control framework, and monitoring and testing of the company's risk controls.

(ii) The chief risk officer is responsible for reporting risk-management deficiencies and emerging risks to the risk committee and resolving risk-management deficiencies in a timely manner.

(3) *Corporate governance requirements.* (i) The covered savings and loan holding company must ensure that the compensation and other incentives provided to the chief risk officer are consistent with providing an objective assessment of the risks taken by the company; and

(ii) The chief risk officer must report directly to both the risk committee and chief executive officer of the company.

■ 9. Add subpart N to read as follows:

**Subpart N—Risk Committee, Liquidity Risk Management, and Liquidity Buffer Requirements for Covered Savings and Loan Holding Companies With Total Consolidated Assets of \$100 Billion or More**

Sec.

238.120 Scope.

238.121 Applicability.

238.122 Risk-management and risk committee requirements.

238.123 Liquidity risk-management requirements.

**§ 238.120 Scope.**

This subpart applies to covered savings and loan holding companies with average total consolidated assets of \$100 billion or more.

**§ 238.121 Applicability.**

(a) *Applicability*—(1) Initial applicability. A covered savings and loan holding company must comply with the risk-management and risk-committee requirements set forth in § 238.122 and the liquidity risk-management and liquidity stress test requirements set forth in §§ 238.123 and 238.124 no later than the first day of the fifth quarter following the date on

which its average total consolidated assets equal or exceed \$100 billion.

(2) *Changes in requirements following a change in category.* A covered savings and loan holding company with average total consolidated assets of \$100 billion or more that changes from one category of covered savings and loan holding company described in § 238.10(b) through (d) to another such category must comply with the requirements applicable to the new category no later than on the first day of the second calendar quarter following the change in the covered savings and loan holding company's category.

(b) *Cessation of requirements.* A covered savings and loan holding company is subject to the risk-management and risk committee requirements set forth in § 238.122 and the liquidity risk-management and liquidity stress test requirements set forth in §§ 238.123 and 238.124 until its total consolidated assets are below \$100 billion for each of four consecutive calendar quarters.

**§ 238.122 Risk-management and risk committee requirements.**

(a) *Risk committee*—(1) *General.* A covered savings and loan holding subject to this subpart must maintain a risk committee that approves and periodically reviews the risk-management policies of the covered savings and loan holding company's global operations and oversees the operation of the covered savings and loan holding company's global risk-management framework. The risk committee's responsibilities include liquidity risk-management as set forth in § 238.123(b).

(2) *Risk-management framework.* The covered savings and loan holding company's global risk-management framework must be commensurate with its structure, risk profile, complexity, activities, and size and must include:

(i) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for its global operations; and

(ii) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(A) Processes and systems for identifying and reporting risks and risk-management deficiencies, including regarding emerging risks, and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies for its global operations;

(B) Processes and systems for establishing managerial and employee responsibility for risk management;

(C) Processes and systems for ensuring the independence of the risk-management function; and

(D) Processes and systems to integrate risk management and associated controls with management goals and its compensation structure for its global operations.

(3) *Corporate governance requirements.* The risk committee must:

(i) Have a formal, written charter that is approved by the covered savings and loan holding company's board of directors;

(ii) Be an independent committee of the board of directors that has, as its sole and exclusive function, responsibility for the risk-management policies of the covered savings and loan holding company's global operations and oversight of the operation of the covered savings and loan holding company's global risk-management framework;

(iii) Report directly to the covered savings and loan holding company's board of directors;

(iv) Receive and review regular reports on not less than a quarterly basis from the covered savings and loan holding company's chief risk officer provided pursuant to paragraph (b)(3)(ii) of this section; and

(v) Meet at least quarterly, or more frequently as needed, and fully document and maintain records of its proceedings, including risk-management decisions.

(4) *Minimum member requirements.* The risk committee must:

(i) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(ii) Be chaired by a director who:

(A) Is not an officer or employee of the covered savings and loan holding company and has not been an officer or employee of the covered savings and loan holding company during the previous three years;

(B) Is not a member of the immediate family, as defined in § 238.31(b)(3), of a person who is, or has been within the last three years, an executive officer of the covered savings and loan holding company, as defined in § 215.2(e)(1) of this chapter; and

(C)(1) Is an independent director under Item 407 of the Securities and Exchange Commission's Regulation S-K (17 CFR 229.407(a)), if the covered savings and loan holding company has an outstanding class of securities traded on an exchange registered with the U.S. Securities and Exchange Commission as

a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) (national securities exchange); or

(2) Would qualify as an independent director under the listing standards of a national securities exchange, as demonstrated to the satisfaction of the Board, if the covered savings and loan holding company does not have an outstanding class of securities traded on a national securities exchange.

(b) *Chief risk officer*—(1) *General.* A covered savings and loan holding company subject to this subpart must appoint a chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

(2) *Responsibilities.* (i) The chief risk officer is responsible for overseeing:

(A) The establishment of risk limits on an enterprise-wide basis and the monitoring of compliance with such limits;

(B) The implementation of and ongoing compliance with the policies and procedures set forth in paragraph (a)(2)(i) of this section and the development and implementation of the processes and systems set forth in paragraph (a)(2)(ii) of this section; and

(C) The management of risks and risk controls within the parameters of the company's risk control framework, and monitoring and testing of the company's risk controls.

(ii) The chief risk officer is responsible for reporting risk-management deficiencies and emerging risks to the risk committee and resolving risk-management deficiencies in a timely manner.

(3) *Corporate governance requirements.* (i) The covered savings and loan holding company must ensure that the compensation and other incentives provided to the chief risk officer are consistent with providing an objective assessment of the risks taken by the covered savings and loan holding company; and

(ii) The chief risk officer must report directly to both the risk committee and chief executive officer of the company.

**§ 238.123 Liquidity risk-management requirements.**

(a) *Responsibilities of the board of directors*—(1) *Liquidity risk tolerance.* The board of directors of a covered savings and loan holding company subject to this subpart must:

(i) Approve the acceptable level of liquidity risk that the covered savings and loan holding company may assume in connection with its operating strategies (liquidity risk tolerance) at least annually, taking into account the



covered savings and loan holding company's capital structure, risk profile, complexity, activities, and size; and

(ii) Receive and review at least semi-annually information provided by senior management to determine whether the covered savings and loan holding company is operating in accordance with its established liquidity risk tolerance.

(2) *Liquidity risk-management strategies, policies, and procedures.* The board of directors must approve and periodically review the liquidity risk-management strategies, policies, and procedures established by senior management pursuant to paragraph (c)(1) of this section.

(b) *Responsibilities of the risk committee.* The risk committee (or a designated subcommittee of such committee composed of members of the board of directors) must approve the contingency funding plan described in paragraph (f) of this section at least annually, and must approve any material revisions to the plan prior to the implementation of such revisions.

(c) *Responsibilities of senior management—(1) Liquidity risk.* (i) Senior management of a covered savings and loan holding company subject to this subpart must establish and implement strategies, policies, and procedures designed to effectively manage the risk that the covered savings and loan holding company's financial condition or safety and soundness would be adversely affected by its inability or the market's perception of its inability to meet its cash and collateral obligations (liquidity risk). The board of directors must approve the strategies, policies, and procedures pursuant to paragraph (a)(2) of this section.

(ii) Senior management must oversee the development and implementation of liquidity risk measurement and reporting systems, including those required by this section and § 238.124.

(iii) Senior management must determine at least quarterly whether the covered savings and loan holding company is operating in accordance with such policies and procedures and whether the covered savings and loan holding company is in compliance with this section and § 238.124 (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition warrant), and establish procedures regarding the preparation of such information.

(2) *Liquidity risk tolerance.* Senior management must report to the board of directors or the risk committee regarding the covered savings and loan holding company's liquidity risk profile

and liquidity risk tolerance at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the company warrant).

(3) *Business lines or products.* (i) Senior management must approve new products and business lines and evaluate the liquidity costs, benefits, and risks of each new business line and each new product that could have a significant effect on the company's liquidity risk profile. The approval is required before the company implements the business line or offers the product. In determining whether to approve the new business line or product, senior management must consider whether the liquidity risk of the new business line or product (under both current and stressed conditions) is within the company's established liquidity risk tolerance.

(ii) Senior management must review at least annually significant business lines and products to determine whether any line or product creates or has created any unanticipated liquidity risk, and to determine whether the liquidity risk of each strategy or product is within the company's established liquidity risk tolerance.

(4) *Cash-flow projections.* Senior management must review the cash-flow projections produced under paragraph (e) of this section at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the covered savings and loan holding company warrant) to ensure that the liquidity risk is within the established liquidity risk tolerance.

(5) *Liquidity risk limits.* Senior management must establish liquidity risk limits as set forth in paragraph (g) of this section and review the company's compliance with those limits at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the company warrant).

(6) *Liquidity stress testing.* Senior management must:

(i) Approve the liquidity stress testing practices, methodologies, and assumptions required in § 238.124(a) at least quarterly, and whenever the covered savings and loan holding company materially revises its liquidity stress testing practices, methodologies or assumptions;

(ii) Review the liquidity stress testing results produced under § 238.124(a) at least quarterly;

(iii) Review the independent review of the liquidity stress tests under § 238.123(d) periodically; and

(iv) Approve the size and composition of the liquidity buffer established under § 238.124(b) at least quarterly.

(d) *Independent review function.* (1) A covered savings and loan holding company subject to this subpart must establish and maintain a review function that is independent of management functions that execute funding to evaluate its liquidity risk management.

(2) The independent review function must:

(i) Regularly, but no less frequently than annually, review and evaluate the adequacy and effectiveness of the company's liquidity risk management processes, including its liquidity stress test processes and assumptions;

(ii) Assess whether the company's liquidity risk-management function complies with applicable laws and regulations, and sound business practices; and

(iii) Report material liquidity risk management issues to the board of directors or the risk committee in writing for corrective action, to the extent permitted by applicable law.

(e) *Cash-flow projections.* (1) A covered savings and loan holding company subject to this subpart must produce comprehensive cash-flow projections that project cash flows arising from assets, liabilities, and off-balance sheet exposures over, at a minimum, short- and long-term time horizons. The covered savings and loan holding company must update short-term cash-flow projections daily and must update longer-term cash-flow projections at least monthly.

(2) The covered savings and loan holding company must establish a methodology for making cash-flow projections that results in projections that:

(i) Include cash flows arising from contractual maturities, intercompany transactions, new business, funding renewals, customer options, and other potential events that may impact liquidity;

(ii) Include reasonable assumptions regarding the future behavior of assets, liabilities, and off-balance sheet exposures;

(iii) Identify and quantify discrete and cumulative cash flow mismatches over these time periods; and

(iv) Include sufficient detail to reflect the capital structure, risk profile, complexity, currency exposure, activities, and size of the covered savings and loan holding company and include analyses by business line, currency, or legal entity as appropriate.

(3) The covered savings and loan holding company must adequately

document its methodology for making cash flow projections and the included assumptions and submit such documentation to the risk committee.

(f) *Contingency funding plan*—(1) *General*. A covered savings and loan holding company subject to this subpart must establish and maintain a contingency funding plan that sets out the company's strategies for addressing liquidity needs during liquidity stress events. The contingency funding plan must be commensurate with the company's capital structure, risk profile, complexity, activities, size, and established liquidity risk tolerance. The company must update the contingency funding plan at least annually, and when changes to market and idiosyncratic conditions warrant.

(2) *Components of the contingency funding plan*—(i) *Quantitative assessment*. The contingency funding plan must:

(A) Identify liquidity stress events that could have a significant impact on the covered savings and loan holding company's liquidity;

(B) Assess the level and nature of the impact on the covered savings and loan holding company's liquidity that may occur during identified liquidity stress events;

(C) Identify the circumstances in which the covered savings and loan holding company would implement its action plan described in paragraph (f)(2)(ii)(A) of this section, which circumstances must include failure to meet any minimum liquidity requirement imposed by the Board;

(D) Assess available funding sources and needs during the identified liquidity stress events;

(E) Identify alternative funding sources that may be used during the identified liquidity stress events; and

(F) Incorporate information generated by the liquidity stress testing required under § 238.124(a).

(ii) *Liquidity event management process*. The contingency funding plan must include an event management process that sets out the covered savings and loan holding company's procedures for managing liquidity during identified liquidity stress events. The liquidity event management process must:

(A) Include an action plan that clearly describes the strategies the company will use to respond to liquidity shortfalls for identified liquidity stress events, including the methods that the company will use to access alternative funding sources;

(B) Identify a liquidity stress event management team that would execute the action plan described in paragraph (f)(2)(ii)(A) of this section;

(C) Specify the process, responsibilities, and triggers for invoking the contingency funding plan, describe the decision-making process during the identified liquidity stress events, and describe the process for executing contingency measures identified in the action plan; and

(D) Provide a mechanism that ensures effective reporting and communication within the covered savings and loan holding company and with outside parties, including the Board and other relevant supervisors, counterparties, and other stakeholders.

(iii) *Monitoring*. The contingency funding plan must include procedures for monitoring emerging liquidity stress events. The procedures must identify early warning indicators that are tailored to the company's capital structure, risk profile, complexity, activities, and size.

(iv) *Testing*. The covered savings and loan holding company must periodically test:

(A) The components of the contingency funding plan to assess the plan's reliability during liquidity stress events;

(B) The operational elements of the contingency funding plan, including operational simulations to test communications, coordination, and decision-making by relevant management; and

(C) The methods the covered savings and loan holding company will use to access alternative funding sources to determine whether these funding sources will be readily available when needed.

(g) *Liquidity risk limits*—(1) *General*. A covered savings and loan holding company subject to this subpart must monitor sources of liquidity risk and establish limits on liquidity risk that are consistent with the company's established liquidity risk tolerance and that reflect the company's capital structure, risk profile, complexity, activities, and size.

(2) *Liquidity risk limits established by a Category II savings and loan holding company, or Category III savings and loan holding company*. If the covered savings and loan holding company is a Category II savings and loan holding company or Category III savings and loan holding company, liquidity risk limits established under paragraph (g)(1) of this section by must include limits on:

(i) Concentrations in sources of funding by instrument type, single counterparty, counterparty type, secured and unsecured funding, and as applicable, other forms of liquidity risk;

(ii) The amount of liabilities that mature within various time horizons; and

(iii) Off-balance sheet exposures and other exposures that could create funding needs during liquidity stress events.

(h) *Collateral, legal entity, and intraday liquidity risk monitoring*. A covered savings and loan holding company subject to this subpart must establish and maintain procedures for monitoring liquidity risk as set forth in this paragraph.

(1) *Collateral*. The covered savings and loan holding company must establish and maintain policies and procedures to monitor assets that have been, or are available to be, pledged as collateral in connection with transactions to which it or its affiliates are counterparties. These policies and procedures must provide that the covered savings and loan holding company:

(i) Calculates all of its collateral positions according to the frequency specified in paragraphs (h)(1)(i)(A) and (B) of this section or as directed by the Board, specifying the value of pledged assets relative to the amount of security required under the relevant contracts and the value of unencumbered assets available to be pledged;

(A) If the covered savings and loan holding company is not a Category IV savings and loan holding company, on at least a weekly basis;

(B) If the covered savings and loan holding company is a Category IV savings and loan holding company, on at least a monthly basis;

(ii) Monitors the levels of unencumbered assets available to be pledged by legal entity, jurisdiction, and currency exposure;

(iii) Monitors shifts in the covered savings and loan holding company's funding patterns, such as shifts between intraday, overnight, and term pledging of collateral; and

(iv) Tracks operational and timing requirements associated with accessing collateral at its physical location (for example, the custodian or securities settlement system that holds the collateral).

(2) *Legal entities, currencies and business lines*. The covered savings and loan holding company must establish and maintain procedures for monitoring and controlling liquidity risk exposures and funding needs within and across significant legal entities, currencies, and business lines, taking into account legal and regulatory restrictions on the transfer of liquidity between legal entities.

(3) *Intraday exposures.* The covered savings and loan holding company must establish and maintain procedures for monitoring intraday liquidity risk exposures that are consistent with the covered savings and loan holding company's capital structure, risk profile, complexity, activities, and size. If the covered savings and loan holding company is a Category II savings and loan holding company or a Category III savings and loan holding company, these procedures must address how the management of the covered savings and loan holding company will:

- (i) Monitor and measure expected daily gross liquidity inflows and outflows;
- (ii) Manage and transfer collateral to obtain intraday credit;
- (iii) Identify and prioritize time-specific obligations so that the covered savings and loan holding company can meet these obligations as expected and settle less critical obligations as soon as possible;
- (iv) Manage the issuance of credit to customers where necessary; and
- (v) Consider the amounts of collateral and liquidity needed to meet payment systems obligations when assessing the covered savings and loan holding company's overall liquidity needs.

**§ 238.124 Liquidity stress testing and buffer requirements.**

(a) *Liquidity stress testing requirement*—(1) *General.* A covered savings and loan holding company subject to this subpart must conduct stress tests to assess the potential impact of the liquidity stress scenarios set forth in paragraph (a)(3) of this section on its cash flows, liquidity position, profitability, and solvency, taking into account its current liquidity condition, risks, exposures, strategies, and activities.

(i) The covered savings and loan holding company must take into consideration its balance sheet exposures, off-balance sheet exposures, size, risk profile, complexity, business lines, organizational structure, and other characteristics of the covered savings and loan holding company that affect its liquidity risk profile in conducting its stress test.

(ii) In conducting a liquidity stress test using the scenarios described in paragraphs (a)(3)(i) and (ii) of this section, the covered savings and loan holding company must address the potential direct adverse impact of associated market disruptions on the covered savings and loan holding company and incorporate the potential actions of other market participants experiencing liquidity stresses under

the market disruptions that would adversely affect the covered savings and loan holding company.

(2) *Frequency.* The covered savings and loan holding company must perform the liquidity stress tests required under paragraph (a)(1) of this section according to the frequency specified in paragraph (a)(2)(i) or (ii) of this section or as directed by the Board:

- (i) If the covered savings and loan holding company is not a Category IV savings and loan holding company, at least monthly; or
  - (ii) If the covered savings and loan holding company is a Category IV savings and loan holding company, at least quarterly.
- (3) *Stress scenarios.* (i) Each stress test conducted under paragraph (a)(1) of this section must include, at a minimum:
- (A) A scenario reflecting adverse market conditions;
  - (B) A scenario reflecting an idiosyncratic stress event for the covered savings and loan holding company; and
  - (C) A scenario reflecting combined market and idiosyncratic stresses.

(ii) The covered savings and loan holding company must incorporate additional liquidity stress scenarios into its liquidity stress test, as appropriate, based on its financial condition, size, complexity, risk profile, scope of operations, or activities. The Board may require the covered savings and loan holding company to vary the underlying assumptions and stress scenarios.

(4) *Planning horizon.* Each stress test conducted under paragraph (a)(1) of this section must include an overnight planning horizon, a 30-day planning horizon, a 90-day planning horizon, a one-year planning horizon, and any other planning horizons that are relevant to the covered savings and loan holding company's liquidity risk profile. For purposes of this section, a "planning horizon" is the period over which the relevant stressed projections extend. The covered savings and loan holding company must use the results of the stress test over the 30-day planning horizon to calculate the size of the liquidity buffer under paragraph (b) of this section.

(5) *Requirements for assets used as cash-flow sources in a stress test.* (i) To the extent an asset is used as a cash flow source to offset projected funding needs during the planning horizon in a liquidity stress test, the fair market value of the asset must be discounted to reflect any credit risk and market volatility of the asset.

(ii) Assets used as cash-flow sources during a planning horizon must be diversified by collateral, counterparty,

borrowing capacity, and other factors associated with the liquidity risk of the assets.

(iii) A line of credit does not qualify as a cash flow source for purposes of a stress test with a planning horizon of 30 days or less. A line of credit may qualify as a cash flow source for purposes of a stress test with a planning horizon that exceeds 30 days.

(6) *Tailoring.* Stress testing must be tailored to, and provide sufficient detail to reflect, a covered savings and loan holding company's capital structure, risk profile, complexity, activities, and size.

(7) *Governance*—(i) *Policies and procedures.* A covered savings and loan holding company subject to this subpart must establish and maintain policies and procedures governing its liquidity stress testing practices, methodologies, and assumptions that provide for the incorporation of the results of liquidity stress tests in future stress testing and for the enhancement of stress testing practices over time.

(ii) *Controls and oversight.* A covered savings and loan holding subject to this subpart must establish and maintain a system of controls and oversight that is designed to ensure that its liquidity stress testing processes are effective in meeting the requirements of this section. The controls and oversight must ensure that each liquidity stress test appropriately incorporates conservative assumptions with respect to the stress scenario in paragraph (a)(3) of this section and other elements of the stress test process, taking into consideration the covered savings and loan holding company's capital structure, risk profile, complexity, activities, size, business lines, legal entity or jurisdiction, and other relevant factors. The assumptions must be approved by the chief risk officer and be subject to the independent review under § 238.123(d).

(iii) *Management information systems.* The covered savings and loan holding company must maintain management information systems and data processes sufficient to enable it to effectively and reliably collect, sort, and aggregate data and other information related to liquidity stress testing.

(8) *Notice and response.* If the Board determines that a covered savings and loan holding company must conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section, the Board will notify the covered savings and loan holding company before the change in frequency takes effect, and describe the basis for its determination. Within 14 calendar days of receipt of a notification under

this paragraph, the covered savings and loan holding company may request in writing that the Board reconsider the requirement. The Board will respond in writing to the company's request for reconsideration prior to requiring that the company conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section.

(b) *Liquidity buffer requirement.* (1) A covered savings and loan holding company subject to this subpart must maintain a liquidity buffer that is sufficient to meet the projected net stressed cash-flow need over the 30-day planning horizon of a liquidity stress test conducted in accordance with paragraph (a) of this section under each scenario set forth in paragraph (a)(3)(i) through (ii) of this section.

(2) *Net stressed cash-flow need.* The net stressed cash-flow need for a covered savings and loan holding company is the difference between the amount of its cash-flow need and the amount of its cash flow sources over the 30-day planning horizon.

(3) *Asset requirements.* The liquidity buffer must consist of highly liquid assets that are unencumbered, as defined in paragraph (b)(3)(ii) of this section:

(i) *Highly liquid asset.* A highly liquid asset includes:

(A) Cash;

(B) Assets that meet the criteria for high quality liquid assets as defined in 12 CFR 249.20; or

(C) Any other asset that the covered savings and loan holding company demonstrates to the satisfaction of the Board:

(1) Has low credit risk and low market risk;

(2) Is traded in an active secondary two-way market that has committed market makers and independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a reasonable time period conforming with trade custom; and

(3) Is a type of asset that investors historically have purchased in periods of financial market distress during which market liquidity has been impaired.

(ii) *Unencumbered.* An asset is unencumbered if it:

(A) Is free of legal, regulatory, contractual, or other restrictions on the ability of such company promptly to liquidate, sell or transfer the asset; and

(B) Is either:

(1) Not pledged or used to secure or provide credit enhancement to any transaction; or

(2) Pledged to a central bank or a U.S. government-sponsored enterprise, to the extent potential credit secured by the asset is not currently extended by such central bank or U.S. government-sponsored enterprise or any of its consolidated subsidiaries.

(iii) *Calculating the amount of a highly liquid asset.* In calculating the amount of a highly liquid asset included in the liquidity buffer, the covered savings and loan holding company must discount the fair market value of the asset to reflect any credit risk and market price volatility of the asset.

(iv) *Operational requirements.* With respect to the liquidity buffer, the bank holding company must:

(A) Establish and implement policies and procedures that require highly liquid assets comprising the liquidity buffer to be under the control of the management function in the covered savings and loan holding company that is charged with managing liquidity risk; and

(B) Demonstrate the capability to monetize a highly liquid asset under each scenario required under § 238.124(a)(3).

(v) *Diversification.* The liquidity buffer must not contain significant concentrations of highly liquid assets by issuer, business sector, region, or other factor related to the covered savings and loan holding company's risk, except with respect to cash and securities issued or guaranteed by the United States, a U.S. government agency, or a U.S. government-sponsored enterprise.

■ 10. Add subpart O to read as follows:

#### **Subpart O—Supervisory Stress Test Requirements for Covered Savings and Loan Holding Companies**

Sec.

238.130 Definitions.

238.131 Applicability.

238.132 Analysis conducted by the Board.

238.133 Data and information required to be submitted in support of the Board's analyses.

238.134 Review of the Board's analysis; publication of summary results.

238.135 Corporate use of stress test results.

#### **§ 238.130 Definitions.**

For purposes of this subpart, the following definitions apply:

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

*Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered

company and that reflect the consensus views of the economic and financial outlook.

*Covered company* means a covered savings and loan holding company (other than a foreign banking organization) subject to this subpart.

*Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

*Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

*Provision for credit losses* means:

(1) With respect to a covered company that has adopted the current expected credit losses methodology under GAAP, the provision for credit losses, as would be reported by the covered company on the FR Y-9C in the current stress test cycle; and,

(2) With respect to a covered company that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as would be reported by the covered company on the FR Y-9C in the current stress test cycle.

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

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

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

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

*Subsidiary* has the same meaning as in § 225.2(o) of this chapter.

#### **§ 238.131 Applicability.**

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this

section, this subpart applies to any covered savings and loan holding company with average total consolidated assets of \$100 billion or more.

(2) *Ongoing applicability.* A covered savings and loan holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below \$100 billion for each of four consecutive quarters, effective on the as-of date of the fourth consecutive FR Y-9C.

(b) *Transitional arrangements.* (1) A covered savings and loan holding company that becomes a covered company on or before September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the second calendar year after the covered savings and loan holding company becomes a covered company, unless that time is extended by the Board in writing.

(2) A covered savings and loan holding company that becomes a covered company after September 30 of

a calendar year must comply with the requirements of this subpart beginning on January 1 of the third calendar year after the covered savings and loan holding company becomes a covered company, unless that time is extended by the Board in writing.

**§ 238.132 Analysis conducted by the Board.**

(a) *In general.* (1) The Board will conduct an analysis of each covered company's capital, on a total consolidated basis, taking into account all relevant exposures and activities of that covered company, to evaluate the ability of the covered company to absorb losses in specified economic and financial conditions.

(2) The analysis will include an assessment of the projected losses, net income, and pro forma capital levels and regulatory capital ratios and other capital ratios for the covered company and use such analytical techniques that the Board determines are appropriate to identify, measure, and monitor risks of the covered company.

(3) In conducting the analyses, the Board will coordinate with the appropriate primary financial regulatory agencies and the Federal Insurance Office, as appropriate.

(b) *Economic and financial scenarios related to the Board's analysis.* The Board will conduct its analysis using a minimum of two different scenarios, including a baseline scenario and a severely adverse scenario. The Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle to which the covered company is subject by no later than February 15 of that year, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than March 1 of that year.

(c) *Frequency of analysis conducted by the Board—*(1) *General.* Except as provided in paragraph (c)(2) of this section, the Board will conduct its analysis of a covered company according to the frequency in Table 1 to § 238.132(c)(1).

TABLE 1 TO § 238.132(c)(1)

If the covered company is a	Then the Board will conduct its analysis
Category II savings and loan holding company .....	Annually.
Category III savings and loan holding company .....	Annually.
Category IV savings and loan holding company .....	Biennially, occurring in each year ending in an even number.

(2) *Change in frequency.* The Board may conduct a stress test of a covered company on a more or less frequent basis than would be required under paragraph (c)(1) of this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Notice and response—*(i) *Notification of change in frequency.* If the Board determines to change the frequency of the stress test under paragraph (c)(2), the Board will notify the company in writing and provide a discussion of the basis for its determination.

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under paragraph (c)(2) of this section, a covered company may request in writing that the Board reconsider the requirement to conduct a stress test on a more or less frequent basis than would be required under paragraph (c)(1) of this section. A covered company's request for reconsideration must include an explanation as to why the request for reconsideration should be granted. The

Board will respond in writing within 14 calendar days of receipt of the company's request.

**§ 238.133 Data and information required to be submitted in support of the Board's analyses.**

(a) *Regular submissions.* Each covered company must submit to the Board such data, on a consolidated basis, that the Board determines is necessary in order for the Board to derive the relevant pro forma estimates of the covered company over the planning horizon under the scenarios described in § 238.132(b).

(b) *Additional submissions required by the Board.* The Board may require a covered company to submit any other information on a consolidated basis that the Board deems necessary in order to:

- (1) Ensure that the Board has sufficient information to conduct its analysis under this subpart; and
- (2) Project a company's pre-provision net revenue, losses, provision for credit losses, and net income; and pro forma capital levels, regulatory capital ratios, and any other capital ratio specified by the Board under the scenarios described in § 238.132(b).

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

**§ 238.134 Review of the Board's analysis; publication of summary results.**

(a) *Review of results.* Based on the results of the analysis conducted under this subpart, the Board will conduct an evaluation to determine whether the covered company has the capital, on a total consolidated basis, necessary to absorb losses and continue its operation by maintaining ready access to funding, meeting its obligations to creditors and other counterparties, and continuing to serve as a credit intermediary under baseline and severely adverse scenarios, and any additional scenarios.

(b) *Publication of results by the Board.* (1) The Board will publicly disclose a summary of the results of the Board's analyses of a covered company by June 30 of the calendar year in which the

stress test was conducted pursuant to § 238.132.

(2) The Board will notify companies of the date on which it expects to publicly disclose a summary of the Board's analyses pursuant to paragraph (b)(1) of this section at least 14 calendar days prior to the expected disclosure date.

#### § 238.135 Corporate use of stress test results.

The board of directors and senior management of each covered company must consider the results of the analysis conducted by the Board under this subpart, as appropriate:

(a) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital); and

(b) When assessing the covered company's exposures, concentrations, and risk positions.

■ 11. Add subpart P to read as follows:

#### Subpart P—Company-Run Stress Test Requirements for Savings and Loan Holding Companies

Sec.

238.140 Authority and purpose.

238.141 Definitions.

238.142 Applicability.

238.143 Stress test.

238.144 Methodologies and practices.

238.145 Reports of stress test results.

238.146 Disclosure of stress test results.

#### § 238.140 Authority and purpose.

(a) *Authority.* 12 U.S.C. 1467; 1467a, 1818, 5361, 5365.

(b) *Purpose.* This subpart establishes the requirement for a covered company to conduct stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

#### § 238.141 Definitions.

For purposes of this subpart, the following definitions apply:

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

*Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

*Capital action* means any issuance or redemption of a debt or equity capital instrument, any capital distribution, and any similar action that the Federal Reserve determines could impact a

savings and loan holding company's consolidated capital.

*Covered company* means:

(1) A Category II savings and loan holding company;

(2) A Category III savings and loan holding company; or

(3) A savings and loan holding company with average total consolidated assets of greater than \$250 billion.

*Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

*Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

*Provision for credit losses* means:

(1) With respect to a covered company that has adopted the current expected credit losses methodology under GAAP, the provision for credit losses, as would be reported by the covered company on the FR Y-9C in the current stress test cycle; and

(2) With respect to a covered company that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as would be reported by the covered company on the FR Y-9C in the current stress test cycle.

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

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

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

*Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered company over the planning horizon, taking into account

its current condition, risks, exposures, strategies, and activities.

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

#### § 238.142 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) Any Category II savings and loan holding company;

(ii) Any Category III savings and loan holding company; and

(iii) Any savings and loan holding company with average total consolidated assets of greater than \$250 billion.

(2) *Ongoing applicability.* A savings and loan holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until the savings and loan holding company:

(i) Is not a Category II savings and loan holding company;

(ii) Is not a Category III savings and loan holding company; and

(iii) Has \$250 billion or less in total consolidated assets in each of four consecutive calendar quarters.

(b) *Transitional arrangements.* (1) A savings and loan holding company that is subject to minimum capital requirements and that becomes a covered company on or before September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the second calendar year after the savings and loan holding company becomes a covered company, unless that time is extended by the Board in writing.

(2) A savings and loan holding company that is subject to minimum capital requirements and that becomes a covered company after September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the third calendar year after the savings and loan holding company becomes a covered company, unless that time is extended by the Board in writing.

#### § 238.143 Stress test.

(a) *Stress test requirement*—(1) *In general.* A covered company must conduct a stress test as required under this subpart.

(2) *Frequency.* (i) *General.* Except as provided in paragraph (a)(2)(ii) of this section, a covered company must conduct a stress test according to the frequency in Table 1 of § 238.143(a)(2)(i).

TABLE 1 OF § 238.143(a)(2)(i)

If the covered company is a	Then the stress test must be conducted
Category II savings and loan holding company .....	Annually, by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Category III savings and loan holding company .....	Biennially, by April 5 of each calendar year ending in an even number, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Savings and loan holding company that is not: ..... (A) A Category II savings and loan holding company; or (B) A Category III savings and loan holding company.	Periodically, as determined by rule or order.

(ii) *Change in frequency.* The Board may require a covered company to conduct a stress test on a more or less frequent basis than would be required under paragraphs (a)(2)(i) of this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Notice and response—(i) Notification of change in frequency.* If the Board requires a covered company to change the frequency of the stress test under paragraph (a)(2)(ii) of this section, the Board will notify the company in writing and provide a discussion of the basis for its determination.

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph (a)(3), a covered company may request in writing that the Board reconsider the requirement to conduct a stress test on a more or less frequent basis than would be required under paragraph (a)(2)(i) of this section. A covered company's request for reconsideration must include an explanation as to why the request for reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(b) *Scenarios provided by the Board—*  
(1) *In general.* In conducting a stress test under this section, a covered company must, at a minimum, use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, the Board will provide a description of the scenarios to each covered company no later than February 15 of the calendar year in which the stress test is performed pursuant to this section.

(2) *Additional components.* (i) The Board may require a covered company with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its severely adverse scenario in the stress test required by this section. The

data used in this component must be as of a date selected by the Board between October 1 of the previous calendar year and March 1 of the calendar year in which the stress test is performed pursuant to this section, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of the calendar year in which the stress test is performed pursuant to this section.

(ii) The Board may require a covered company to include one or more additional components in its severely adverse scenario in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a covered company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response—(i) Notification of additional component.* If the Board requires a covered company to include one or more additional components in its severely adverse scenario under paragraph (b)(2) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing and include a discussion of the basis for its determination. The Board will provide such notification no later than December 31 of the preceding calendar year. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the

company include the additional component(s) or additional scenario(s), including an explanation as to why the request for reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by March 1 of the calendar year in which the stress test is performed pursuant to this section.

**§ 238.144 Methodologies and practices.**

(a) *Potential impact on capital.* In conducting a stress test under § 238.143, for each quarter of the planning horizon, a covered company must estimate the following for each scenario required to be used:

(1) Losses, pre-provision net revenue, provision for credit losses, and net income; and

(2) The potential impact on pro forma regulatory capital levels and pro forma capital ratios (including regulatory capital ratios and any other capital ratios specified by the Board), incorporating the effects of any capital actions over the planning horizon and maintenance of an allowance for credit losses appropriate for credit exposures throughout the planning horizon.

(b) *Assumptions regarding capital actions.* In conducting a stress test under § 238.143, a covered company is required to make the following assumptions regarding its capital actions over the planning horizon:

(1) For the first quarter of the planning horizon, the covered company must take into account its actual capital actions as of the end of that quarter; and  
(2) For each of the second through ninth quarters of the planning horizon, the covered company must include in the projections of capital:

(i) Common stock dividends equal to the quarterly average dollar amount of common stock dividends that the company paid in the previous year (that is, the first quarter of the planning horizon and the preceding three

calendar quarters) plus common stock dividends attributable to issuances related to expensed employee compensation or in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the covered company's pro forma balance sheet estimates;

(ii) Payments on any other instrument that is eligible for inclusion in the numerator of a regulatory capital ratio equal to the stated dividend, interest, or principal due on such instrument during the quarter;

(iii) An assumption of no redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio; and

(iv) An assumption of no issuances of common stock or preferred stock, except for issuances related to expensed employee compensation or in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the covered company's pro forma balance sheet estimates.

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

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a covered company must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the covered company may warrant, but no less than each year a stress test is conducted. The board of directors and senior management of the covered company must receive a summary of the results of any stress test conducted under this subpart.

(3) *Role of stress testing results.* The board of directors and senior management of each covered company must consider the results of the analysis it conducts under this subpart, as appropriate:

(i) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's

capital structure (including the level and composition of capital); and

(ii) When assessing the covered company's exposures, concentrations, and risk positions.

#### § 238.145 Reports of stress test results.

(a) *Reports to the Board of stress test results.* A covered company must report the results of the stress test required under § 238.143 to the Board in the manner and form prescribed by the Board. Such results must be submitted by April 5 of the calendar year in which the stress test is performed pursuant to § 238.143, unless that time is extended by the Board in writing.

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

#### § 238.146 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *In general.* A covered company must publicly disclose a summary of the results of the stress test required under § 238.143 within the period that is 15 calendar days after the Board publicly discloses the results of its supervisory stress test of the covered company pursuant to § 238.134, unless that time is extended by the Board in writing.

(2) *Disclosure method.* The summary required under this section may be disclosed on the website of a covered company, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results.* The summary results must, at a minimum, contain the following information regarding the severely adverse scenario:

(1) A description of the types of risks included in the stress test;

(2) A general description of the methodologies used in the stress test, including those employed to estimate losses, revenues, provision for credit losses, and changes in capital positions over the planning horizon;

(3) Estimates of—

(i) Pre-provision net revenue and other revenue;

(ii) Provision for credit losses, realized losses or gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes;

(iv) Loan losses (dollar amount and as a percentage of average portfolio balance) in the aggregate and by subportfolio, including: Domestic

closed-end first-lien mortgages; domestic junior lien mortgages and home equity lines of credit; commercial and industrial loans; commercial real estate loans; credit card exposures; other consumer loans; and all other loans; and

(v) Pro forma regulatory capital ratios and any other capital ratios specified by the Board; and

(4) An explanation of the most significant causes for the changes in regulatory capital ratios; and

(5) With respect to any depository institution subsidiary that is subject to stress testing requirements pursuant to 12 U.S.C. 5365(i)(2), 12 CFR part 46 (OCC), or 12 CFR part 325, subpart C (FDIC), changes over the planning horizon in regulatory capital ratios and any other capital ratios specified by the Board and an explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Content of results.* (1) The following disclosures required under paragraph (b) of this section must be on a cumulative basis over the planning horizon:

(i) Pre-provision net revenue and other revenue;

(ii) Provision for credit losses, realized losses or gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes; and

(iv) Loan losses in the aggregate and by subportfolio.

(2) The disclosure of pro forma regulatory capital ratios and any other capital ratios specified by the Board that is required under paragraph (b) of this section must include the beginning value, ending value, and minimum value of each ratio over the planning horizon.

■ 12. Add subpart Q to read as follows:

#### Subpart Q—Single Counterparty Credit Limits for Covered Savings and Loan Holding Companies

Sec.

238.150 Applicability and general provisions.

238.151 Definitions.

238.152 Credit exposure limits.

238.153 Gross credit exposure.

238.154 Net credit exposure.

238.155 Investments in and exposures to securitization vehicles, investment funds, and other special purpose vehicles that are not subsidiaries of the covered company.

238.156 Aggregation of exposures to more than one counterparty due to economic interdependence or control relationships.

238.157 Exemptions.

238.158 Compliance.



**§ 238.150 Applicability and general provisions.**

(a) *In general.* This subpart establishes single counterparty credit limits for a covered company. For purposes of this subpart, covered company means:

(i) A Category II savings and loan holding company; or

(ii) A Category III savings and loan holding company.

(b) *Credit exposure limits.* (1) Section 238.152 establishes credit exposure limits for a covered company.

(2) A covered company is required to calculate its aggregate net credit exposure, gross credit exposure, and net credit exposure to a counterparty using the methods in this subpart.

(c) *Applicability of this subpart.* (1) A covered company that becomes subject to this subpart must comply with the requirements of this subpart beginning on the first day of the ninth calendar quarter after it becomes a covered company, unless that time is accelerated or extended by the Board in writing.

(d) *Cessation of requirements.* Any company that becomes a covered company will remain subject to the requirements of this subpart unless and until it is not a Category II savings and loan holding company or a Category III savings and loan holding company.

**§ 238.151 Definitions.**

Unless defined in this section, terms that are set forth in § 238.2 and used in this subpart have the definitions assigned in § 238.2. For purposes of this subpart:

(a) *Adjusted market value* means:

(1) With respect to the value of cash, securities, or other eligible collateral transferred by the covered company to a counterparty, the sum of:

(i) The market value of the cash, securities, or other eligible collateral; and

(ii) The product of the market value of the securities or other eligible collateral multiplied by the applicable collateral haircut in Table 1 to § 217.132 of this chapter; and

(2) With respect to cash, securities, or other eligible collateral received by the covered company from a counterparty:

(i) The market value of the cash, securities, or other eligible collateral; minus

(ii) The market value of the securities or other eligible collateral multiplied by the applicable collateral haircut in Table 1 to § 217.132 of this chapter.

(3) Prior to calculating the adjusted market value pursuant to paragraphs (a)(1) and (2) of this section, with regard to a transaction that meets the definition of “repo-style transaction” in § 217.2 of this chapter, the covered company

would first multiply the applicable collateral haircuts in Table 1 to § 217.132 of this chapter by the square root of 1/2.

(b) *Affiliate* means, with respect to a company:

(1) Any subsidiary of the company and any other company that is consolidated with the company under applicable accounting standards; or

(2) For a company that is not subject to principles or standards referenced in paragraph (b)(1) of this section, any subsidiary of the company and any other company that would be consolidated with the company, if consolidation would have occurred if such principles or standards had applied.

(c) *Aggregate net credit exposure* means the sum of all net credit exposures of a covered company and all of its subsidiaries to a single counterparty as calculated under this subpart.

(d) *Bank-eligible investments* means investment securities that a national bank is permitted to purchase, sell, deal in, underwrite, and hold under 12 U.S.C. 24 (Seventh) and 12 CFR part 1.

(e) *Counterparty* means, with respect to a credit transaction:

(1) With respect to a natural person, the natural person, and, if the credit exposure of the covered company to such natural person exceeds 5 percent of the covered company’s tier 1 capital, the natural person and members of the person’s immediate family collectively;

(2) With respect to any company that is not a subsidiary of the covered company, the company and its affiliates collectively;

(3) With respect to a State, the State and all of its agencies, instrumentalities, and political subdivisions (including any municipalities) collectively;

(4) With respect to a foreign sovereign entity that is not assigned a zero percent risk weight under the standardized approach in 12 CFR part 217, subpart D, the foreign sovereign entity and all of its agencies and instrumentalities (but not including any political subdivision) collectively; and

(5) With respect to a political subdivision of a foreign sovereign entity such as a state, province, or municipality, any political subdivision of the foreign sovereign entity and all of such political subdivision’s agencies and instrumentalities, collectively.<sup>1</sup>

(f) *Covered company* is defined in § 238.150(a)

<sup>1</sup> In addition, under § 238.156, under certain circumstances, a covered company is required to aggregate its net credit exposure to one or more counterparties for all purposes under this subpart.

(g) *Credit derivative* has the same meaning as in § 217.2 of this chapter.

(h) *Credit transaction* means, with respect to a counterparty:

(1) Any extension of credit to the counterparty, including loans, deposits, and lines of credit, but excluding uncommitted lines of credit;

(2) Any repurchase agreement or reverse repurchase agreement with the counterparty;

(3) Any securities lending or securities borrowing transaction with the counterparty;

(4) Any guarantee, acceptance, or letter of credit (including any endorsement, confirmed letter of credit, or standby letter of credit) issued on behalf of the counterparty;

(5) Any purchase of securities issued by or other investment in the counterparty;

(6) Any credit exposure to the counterparty in connection with a derivative transaction between the covered company and the counterparty;

(7) Any credit exposure to the counterparty in connection with a credit derivative or equity derivative between the covered company and a third party, the reference asset of which is an obligation or equity security of, or equity investment in, the counterparty; and

(8) Any transaction that is the functional equivalent of the above, and any other similar transaction that the Board, by regulation or order, determines to be a credit transaction for purposes of this subpart.

(i) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(j) *Derivative transaction* means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

(k) *Eligible collateral* means collateral in which, notwithstanding the prior security interest of any custodial agent, the covered company has a perfected, first priority security interest (or the legal equivalent thereof, if outside of the United States), with the exception of cash on deposit, and is in the form of:

(1) Cash on deposit with the covered company or a subsidiary of the covered company (including cash in foreign currency or U.S. dollars held for the covered company by a custodian or trustee, whether inside or outside of the United States);

(2) Debt securities (other than mortgage- or asset-backed securities and resecuritization securities, unless those securities are issued by a U.S. government-sponsored enterprise) that are bank-eligible investments and that are investment grade, except for any debt securities issued by the covered company or any subsidiary of the covered company;

(3) Equity securities that are publicly traded, except for any equity securities issued by the covered company or any subsidiary of the covered company;

(4) Convertible bonds that are publicly traded, except for any convertible bonds issued by the covered company or any subsidiary of the covered company; or

(5) Gold bullion.

(l) *Eligible credit derivative* means a single-name credit derivative or a standard, non-tranched index credit derivative, provided that:

(1) The contract meets the requirements of an eligible guarantee and has been confirmed by the protection purchaser and the protection provider;

(2) Any assignment of the contract has been confirmed by all relevant parties;

(3) If the credit derivative is a credit default swap, the contract includes the following credit events:

(i) Failure to pay any amount due under the terms of the reference exposure, subject to any applicable minimal payment threshold that is consistent with standard market practice and with a grace period that is closely in line with the grace period of the reference exposure; and

(ii) Receivership, insolvency, liquidation, conservatorship, or inability of the reference exposure issuer to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and similar events;

(4) The terms and conditions dictating the manner in which the contract is to be settled are incorporated into the contract;

(5) If the contract allows for cash settlement, the contract incorporates a robust valuation process to estimate loss reliably and specifies a reasonable period for obtaining post-credit event valuations of the reference exposure;

(6) The contract requires the protection purchaser to transfer an exposure to the protection provider at settlement, the terms of at least one of the exposures that is permitted to be transferred under the contract provide that any required consent to transfer may not be unreasonably withheld; and

(7) If the credit derivative is a credit default swap, the contract clearly

identifies the parties responsible for determining whether a credit event has occurred, specifies that this determination is not the sole responsibility of the protection provider, and gives the protection purchaser the right to notify the protection provider of the occurrence of a credit event.

(m) *Eligible equity derivative* means an equity derivative, provided that:

(1) The derivative contract has been confirmed by all relevant parties;

(2) Any assignment of the derivative contract has been confirmed by all relevant parties; and

(3) The terms and conditions dictating the manner in which the derivative contract is to be settled are incorporated into the contract.

(n) *Eligible guarantee* has the same meaning as in § 217.2 of this chapter.

(o) *Eligible guarantor* has the same meaning as in § 217.2 of this chapter.

(p) *Equity derivative* has the same meaning as “equity derivative contract” in § 217.2 of this chapter.

(q) *Exempt counterparty* means an entity that is identified as exempt from the requirements of this subpart under § 238.157, or that is otherwise excluded from this subpart, including any sovereign entity assigned a zero percent risk weight under the standardized approach in 12 CFR part 217, subpart D.

(r) *Financial entity* means:

(1)(i) A bank holding company or an affiliate thereof; a savings and loan holding company; a U.S. intermediate holding company established or designated pursuant to 12 CFR 252.153; or a nonbank financial company supervised by the Board;

(ii) A depository institution as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)); an organization that is organized under the laws of a foreign country and that engages directly in the business of banking outside the United States; a federal credit union or state credit union as defined in section 2 of the Federal Credit Union Act (12 U.S.C. 1752(1) and (6)); a national association, state member bank, or state nonmember bank that is not a depository institution; an institution that functions solely in a trust or fiduciary capacity as described in section 2(c)(2)(D) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)(D)); an industrial loan company, an industrial bank, or other similar institution described in section 2(c)(2)(H) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)(H));

(iii) An entity that is state-licensed or registered as:

(A) A credit or lending entity, including a finance company; money

lender; installment lender; consumer lender or lending company; mortgage lender, broker, or bank; motor vehicle title pledge lender; payday or deferred deposit lender; premium finance company; commercial finance or lending company; or commercial mortgage company; except entities registered or licensed solely on account of financing the entity's direct sales of goods or services to customers;

(B) A money services business, including a check casher; money transmitter; currency dealer or exchange; or money order or traveler's check issuer;

(iv) Any person registered with the Commodity Futures Trading Commission as a swap dealer or major swap participant pursuant to the Commodity Exchange Act of 1936 (7 U.S.C. 1 *et seq.*), or an entity that is registered with the U.S. Securities and Exchange Commission as a security-based swap dealer or a major security-based swap participant pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*);

(v) A securities holding company as defined in section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 1850a); a broker or dealer as defined in sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)–(5)); an investment adviser as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); an investment company registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*); or a company that has elected to be regulated as a business development company pursuant to section 54(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–53(a));

(vi) A private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); an entity that would be an investment company under section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3) but for section 3(c)(5)(C); or an entity that is deemed not to be an investment company under section 3 of the Investment Company Act of 1940 pursuant to Investment Company Act Rule 3a–7 (17 CFR 270.3a–7) of the U.S. Securities and Exchange Commission;

(vii) A commodity pool, a commodity pool operator, or a commodity trading advisor as defined, respectively, in sections 1a(10), 1a(11), and 1a(12) of the Commodity Exchange Act of 1936 (7 U.S.C. 1a(10), 1a(11), and 1a(12)); a floor broker, a floor trader, or introducing

broker as defined, respectively, in sections 1a(22), 1a(23) and 1a(31) of the Commodity Exchange Act of 1936 (7 U.S.C. 1a(22), 1a(23), and 1a(31)); or a futures commission merchant as defined in section 1a(28) of the Commodity Exchange Act of 1936 (7 U.S.C. 1a(28));

(viii) An employee benefit plan as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1002);

(ix) An entity that is organized as an insurance company, primarily engaged in writing insurance or reinsuring risks underwritten by insurance companies, or is subject to supervision as such by a State insurance regulator or foreign insurance regulator;

(x) Any designated financial market utility, as defined in section 803 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5462); and

(xi) An entity that would be a financial entity described in paragraphs (r)(1)(i) through (x) of this section, if it were organized under the laws of the United States or any State thereof; and

(2) Provided that, for purposes of this subpart, “financial entity” does not include any counterparty that is a foreign sovereign entity or multilateral development bank.

(s) *Foreign sovereign entity* means a sovereign entity other than the United States government and the entity’s agencies, departments, ministries, and central bank collectively.

(t) *Gross credit exposure* means, with respect to any credit transaction, the credit exposure of the covered company before adjusting, pursuant to § 238.154, for the effect of any eligible collateral, eligible guarantee, eligible credit derivative, eligible equity derivative, other eligible hedge, and any unused portion of certain extensions of credit.

(u) *Immediate family* means the spouse of an individual, the individual’s minor children, and any of the individual’s children (including adults) residing in the individual’s home.

(v) *Intraday credit exposure* means credit exposure of a covered company to a counterparty that by its terms is to be repaid, sold, or terminated by the end of its business day in the United States.

(w) *Investment grade* has the same meaning as in § 217.2 of this chapter.

(x) *Multilateral development bank* has the same meaning as in § 217.2 of this chapter.

(y) *Net credit exposure* means, with respect to any credit transaction, the gross credit exposure of a covered company and all of its subsidiaries calculated under § 238.153, as adjusted in accordance with § 238.154.

(z) *Qualifying central counterparty* has the same meaning as in § 217.2 of this chapter.

(aa) *Qualifying master netting agreement* has the same meaning as in § 217.2 of this chapter.

(bb) *Securities financing transaction* means any repurchase agreement, reverse repurchase agreement, securities borrowing transaction, or securities lending transaction.

(cc) *Short sale* means any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.

(dd) *Sovereign entity* means a central national government (including the U.S. government) or an agency, department, ministry, or central bank, but not including any political subdivision such as a state, province, or municipality.

(ee) *Subsidiary*. A company is a subsidiary of another company if:

(1) The company is consolidated by the other company under applicable accounting standards; or

(2) For a company that is not subject to principles or standards referenced in paragraph (ee)(1) of this section, consolidation would have occurred if such principles or standards had applied.

(ff) *Tier 1 capital* means common equity tier 1 capital and additional tier 1 capital, as defined in 12 CFR part 217 and as reported by the covered savings and loan holding company on the most recent FR Y-9C report on a consolidated basis.

(gg) *Total consolidated assets*. A company’s total consolidated assets are determined based on:

(1) The average of the company’s total consolidated assets in the four most recent consecutive quarters as reported quarterly on the FR Y-9C; or

(2) If the company has not filed an FR Y-9C for each of the four most recent consecutive quarters, the average of the company’s total consolidated assets, as reported on the company’s FR Y-9C, for the most recent quarter or consecutive quarters, as applicable.

#### § 238.152 Credit exposure limits.

*General limit on aggregate net credit exposure.* No covered company may have an aggregate net credit exposure to any counterparty that exceeds 25 percent of the tier 1 capital of the covered company.

#### § 238.153 Gross credit exposure.

(a) *Calculation of gross credit exposure.* The amount of gross credit exposure of a covered company to a counterparty with respect to a credit transaction is, in the case of:

(1) A deposit of the covered company held by the counterparty, loan by a covered company to the counterparty, and lease in which the covered company is the lessor and the counterparty is the lessee, equal to the amount owed by the counterparty to the covered company under the transaction.

(2) A debt security or debt investment held by the covered company that is issued by the counterparty, equal to:

(i) The market value of the securities, for trading and available-for-sale securities; and

(ii) The amortized purchase price of the securities or investments, for securities or investments held to maturity.

(3) An equity security held by the covered company that is issued by the counterparty, equity investment in a counterparty, and other direct investments in a counterparty, equal to the market value.

(4) A securities financing transaction must be valued using any of the methods that the covered company is authorized to use under 12 CFR part 217, subparts D and E to value such transactions:

(i)(A) As calculated for each transaction, in the case of a securities financing transaction between the covered company and the counterparty that is not subject to a bilateral netting agreement or does not meet the definition of “repo-style transaction” in § 217.2 of this chapter; or

(B) As calculated for a netting set, in the case of a securities financing transaction between the covered company and the counterparty that is subject to a bilateral netting agreement with that counterparty and meets the definition of “repo-style transaction” in § 217.2 of this chapter;

(ii) For purposes of paragraph (a)(4)(i) of this section, the covered company must:

(A) Assign a value of zero to any security received from the counterparty that does not meet the definition of “eligible collateral” in § 238.151; and

(B) Include the value of securities that are eligible collateral received by the covered company from the counterparty (including any exempt counterparty), calculated in accordance with paragraphs (a)(4)(i) through (iv) of this section, when calculating its gross credit exposure to the issuer of those securities;

(iii) Notwithstanding paragraphs (a)(4)(i) and (ii) of this section and with respect to each credit transaction, a covered company’s gross credit exposure to a collateral issuer under this paragraph (a)(4) is limited to the covered company’s gross credit

exposure to the counterparty on the credit transaction; and

(iv) In cases where the covered company receives eligible collateral from a counterparty in addition to the cash or securities received from that counterparty, the counterparty may reduce its gross credit exposure to that counterparty in accordance with § 238.154(b).

(5) A committed credit line extended by a covered company to a counterparty, equal to the face amount of the committed credit line.

(6) A guarantee or letter of credit issued by a covered company on behalf of a counterparty, equal to the maximum potential loss to the covered company on the transaction.

(7) A derivative transaction must be valued using any of the methods that the covered company is authorized to use under 12 CFR part 217, subparts D and E to value such transactions:

(i)(A) As calculated for each transaction, in the case of a derivative transaction between the covered company and the counterparty, including an equity derivative but excluding a credit derivative described in paragraph (a)(8) of this section, that is not subject to a qualifying master netting agreement; or

(B) As calculated for a netting set, in the case of a derivative transaction between the covered company and the counterparty, including an equity derivative but excluding a credit derivative described in paragraph (a)(8) of this section, that is subject to a qualifying master netting agreement.

(ii) In cases where a covered company is required to recognize an exposure to an eligible guarantor pursuant to § 238.154(d), the covered company must exclude the relevant derivative transaction when calculating its gross exposure to the original counterparty under this section.

(8) A credit derivative between the covered company and a third party where the covered company is the protection provider and the reference asset is an obligation or debt security of the counterparty, equal to the maximum potential loss to the covered company on the transaction.

(b) *Investments in and exposures to securitization vehicles, investment funds, and other special purpose vehicles that are not subsidiaries.* Notwithstanding paragraph (a) of this section, a covered company must calculate pursuant to § 238.155 its gross credit exposure due to any investment in the debt or equity of, and any credit derivative or equity derivative between the covered company and a third party where the covered company is the

protection provider and the reference asset is an obligation or equity security of, or equity investment in, a securitization vehicle, investment fund, and other special purpose vehicle that is not a subsidiary of the covered company.

(c) *Attribution rule.* Notwithstanding any other requirement in this subpart, a covered company must treat any transaction with any natural person or entity as a credit transaction with another party, to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, the other party.

#### § 238.154 Net credit exposure.

(a) *In general.* For purposes of this subpart, a covered company must calculate its net credit exposure to a counterparty by adjusting its gross credit exposure to that counterparty in accordance with the rules set forth in this section.

(b) *Eligible collateral.* (1) In computing its net credit exposure to a counterparty for any credit transaction other than a securities financing transaction, a covered company must reduce its gross credit exposure on the transaction by the adjusted market value of any eligible collateral.

(2) A covered company that reduces its gross credit exposure to a counterparty as required under paragraph (b)(1) of this section must include the adjusted market value of the eligible collateral, when calculating its gross credit exposure to the collateral issuer.

(3) Notwithstanding paragraph (b)(2) of this section, a covered company's gross credit exposure to a collateral issuer under this paragraph (b) is limited to:

(i) Its gross credit exposure to the counterparty on the credit transaction, or

(ii) In the case of an exempt counterparty, the gross credit exposure that would have been attributable to that exempt counterparty on the credit transaction if valued in accordance with § 238.153(a).

(c) *Eligible guarantees.* (1) In calculating net credit exposure to a counterparty for any credit transaction, a covered company must reduce its gross credit exposure to the counterparty by the amount of any eligible guarantee from an eligible guarantor that covers the transaction.

(2) A covered company that reduces its gross credit exposure to a counterparty as required under paragraph (c)(1) of this section must include the amount of eligible

guarantees when calculating its gross credit exposure to the eligible guarantor.

(3) Notwithstanding paragraph (c)(2) of this section, a covered company's gross credit exposure to an eligible guarantor with respect to an eligible guarantee under this paragraph (c) is limited to:

(i) Its gross credit exposure to the counterparty on the credit transaction prior to recognition of the eligible guarantee, or

(ii) In the case of an exempt counterparty, the gross credit exposure that would have been attributable to that exempt counterparty on the credit transaction prior to recognition of the eligible guarantee if valued in accordance with § 238.153(a).

(d) *Eligible credit and equity derivatives.* (1) In calculating net credit exposure to a counterparty for a credit transaction under this section, a covered company must reduce its gross credit exposure to the counterparty by:

(i) In the case of any eligible credit derivative from an eligible guarantor, the notional amount of the eligible credit derivative; or

(ii) In the case of any eligible equity derivative from an eligible guarantor, the gross credit exposure amount to the counterparty (calculated in accordance with § 238.153(a)(7)).

(2)(i) A covered company that reduces its gross credit exposure to a counterparty as provided under paragraph (d)(1) of this section must include, when calculating its net credit exposure to the eligible guarantor, including in instances where the underlying credit transaction would not be subject to the credit limits of § 238.152 (for example, due to an exempt counterparty), either

(A) In the case of any eligible credit derivative from an eligible guarantor, the notional amount of the eligible credit derivative; or

(B) In the case of any eligible equity derivative from an eligible guarantor, the gross credit exposure amount to the counterparty (calculated in accordance with § 238.153(a)(7)).

(ii) Notwithstanding paragraph (d)(2)(i) of this section, in cases where the eligible credit derivative or eligible equity derivative is used to hedge covered positions that are subject to the Board's market risk rule (12 CFR part 217, subpart F) and the counterparty on the hedged transaction is not a financial entity, the amount of credit exposure that a company must recognize to the eligible guarantor is the amount that would be calculated pursuant to § 238.153(a).

(3) Notwithstanding paragraph (d)(2) of this section, a covered company's

gross credit exposure to an eligible guarantor with respect to an eligible credit derivative or an eligible equity derivative this paragraph (d) is limited to:

(i) Its gross credit exposure to the counterparty on the credit transaction prior to recognition of the eligible credit derivative or the eligible equity derivative, or

(ii) In the case of an exempt counterparty, the gross credit exposure that would have been attributable to that exempt counterparty on the credit transaction prior to recognition of the eligible credit derivative or the eligible equity derivative if valued in accordance with § 238.153(a).

(e) *Other eligible hedges.* In calculating net credit exposure to a counterparty for a credit transaction under this section, a covered company may reduce its gross credit exposure to the counterparty by the face amount of a short sale of the counterparty's debt security or equity security, provided that:

(1) The instrument in which the covered company has a short position is junior to, or *pari passu* with, the instrument in which the covered company has the long position; and

(2) The instrument in which the covered company has a short position and the instrument in which the covered company has the long position are either both treated as trading or available-for-sale exposures or both treated as held-to-maturity exposures.

(f) *Unused portion of certain extensions of credit.* (1) In computing its net credit exposure to a counterparty for a committed credit line or revolving credit facility under this section, a covered company may reduce its gross credit exposure by the amount of the unused portion of the credit extension to the extent that the covered company does not have any legal obligation to advance additional funds under the extension of credit and the used portion of the credit extension has been fully secured by eligible collateral.

(2) To the extent that the used portion of a credit extension has been secured by eligible collateral, the covered company may reduce its gross credit exposure by the adjusted market value of any eligible collateral received from the counterparty, even if the used portion has not been fully secured by eligible collateral.

(3) To qualify for the reduction in net credit exposure under this paragraph, the credit contract must specify that any used portion of the credit extension must be fully secured by the adjusted market value of any eligible collateral.

(g) *Credit transactions involving exempt counterparties.* (1) A covered company's credit transactions with an exempt counterparty are not subject to the requirements of this subpart, including but not limited to § 238.152.

(2) Notwithstanding paragraph (g)(1) of this section, in cases where a covered company has a credit transaction with an exempt counterparty and the covered company has obtained eligible collateral from that exempt counterparty or an eligible guarantee or eligible credit or equity derivative from an eligible guarantor, the covered company must include (for purposes of this subpart) such exposure to the issuer of such eligible collateral or the eligible guarantor, as calculated in accordance with the rules set forth in this section, when calculating its gross credit exposure to that issuer of eligible collateral or eligible guarantor.

(h) *Currency mismatch adjustments.* For purposes of calculating its net credit exposure to a counterparty under this section, a covered company must apply, as applicable:

(1) When reducing its gross credit exposure to a counterparty resulting from any credit transaction due to any eligible collateral and calculating its gross credit exposure to an issuer of eligible collateral, pursuant to paragraph (b) of this section, the currency mismatch adjustment approach of § 217.37(c)(3)(ii) of this chapter; and

(2) When reducing its gross credit exposure to a counterparty resulting from any credit transaction due to any eligible guarantee, eligible equity derivative, or eligible credit derivative from an eligible guarantor and calculating its gross credit exposure to an eligible guarantor, pursuant to paragraphs (c) and (d) of this section, the currency mismatch adjustment approach of § 217.36(f) of this chapter.

(i) *Maturity mismatch adjustments.* For purposes of calculating its net credit exposure to a counterparty under this section, a covered company must apply, as applicable, the maturity mismatch adjustment approach of § 217.36(d) of this chapter:

(1) When reducing its gross credit exposure to a counterparty resulting from any credit transaction due to any eligible collateral or any eligible guarantees, eligible equity derivatives, or eligible credit derivatives from an eligible guarantor, pursuant to paragraphs (b) through (d) of this section, and

(2) In calculating its gross credit exposure to an issuer of eligible collateral, pursuant to paragraph (b) of this section, or to an eligible guarantor,

pursuant to paragraphs (c) and (d) of this section; provided that

(3) The eligible collateral, eligible guarantee, eligible equity derivative, or eligible credit derivative subject to paragraph (i)(1) of this section:

(i) Has a shorter maturity than the credit transaction;

(ii) Has an original maturity equal to or greater than one year;

(iii) Has a residual maturity of not less than three months; and

(iv) The adjustment approach is otherwise applicable.

**§ 238.155 Investments in and exposures to securitization vehicles, investment funds, and other special purpose vehicles that are not subsidiaries of the covered company.**

(a) *In general.* (1) For purposes of this section, the following definitions apply:

(i) *SPV* means a securitization vehicle, investment fund, or other special purpose vehicle that is not a subsidiary of the covered company.

(ii) *SPV exposure* means an investment in the debt or equity of an SPV, or a credit derivative or equity derivative between the covered company and a third party where the covered company is the protection provider and the reference asset is an obligation or equity security of, or equity investment in, an SPV.

(2)(i) A covered company must determine whether the amount of its gross credit exposure to an issuer of assets in an SPV, due to an SPV exposure, is equal to or greater than 0.25 percent of the covered company's tier 1 capital using one of the following two methods:

(A) The sum of all of the issuer's assets (with each asset valued in accordance with § 238.153(a)) in the SPV; or

(B) The application of the look-through approach described in paragraph (b) of this section.

(ii) With respect to the determination required under paragraph (a)(2)(i) of this section, a covered company must use the same method to calculate gross credit exposure to each issuer of assets in a particular SPV.

(iii) In making a determination under paragraph (a)(2)(i) of this section, the covered company must consider only the credit exposure to the issuer arising from the covered company's SPV exposure.

(iv) For purposes of this paragraph (a)(2), a covered company that is unable to identify each issuer of assets in an SPV must attribute to a single unknown counterparty the amount of its gross credit exposure to all unidentified issuers and calculate such gross credit exposure using one method in either

paragraph (a)(2)(i)(A) or (a)(2)(i)(B) of this section.

(3)(i) If a covered company determines pursuant to paragraph (a)(2) of this section that the amount of its gross credit exposure to an issuer of assets in an SPV is less than 0.25 percent of the covered company's tier 1 capital, the amount of the covered company's gross credit exposure to that issuer may be attributed to either that issuer of assets or the SPV:

(A) If attributed to the issuer of assets, the issuer of assets must be identified as a counterparty, and the gross credit exposure calculated under paragraph (a)(2)(i)(A) of this section to that issuer of assets must be aggregated with any other gross credit exposures (valued in accordance with § 238.153) to that same counterparty; and

(B) If attributed to the SPV, the covered company's gross credit exposure is equal to the covered company's SPV exposure, valued in accordance with § 238.153(a).

(ii) If a covered company determines pursuant to paragraph (a)(2) of this section that the amount of its gross credit exposure to an issuer of assets in an SPV is equal to or greater than 0.25 percent of the covered company's tier 1 capital or the covered company is unable to determine that the amount of the gross credit exposure is less than 0.25 percent of the covered company's tier 1 capital:

(A) The covered company must calculate the amount of its gross credit exposure to the issuer of assets in the SPV using the look-through approach in paragraph (b) of this section;

(B) The issuer of assets in the SPV must be identified as a counterparty, and the gross credit exposure calculated in accordance with paragraph (b) of this section must be aggregated with any other gross credit exposures (valued in accordance with § 238.153) to that same counterparty; and

(C) When applying the look-through approach in paragraph (b) of this section, a covered company that is unable to identify each issuer of assets in an SPV must attribute to a single unknown counterparty the amount of its gross credit exposure, calculated in accordance with paragraph (b) of this section, to all unidentified issuers.

(iii) For purposes of this section, a covered company must aggregate all gross credit exposures to unknown counterparties for all SPVs as if the exposures related to a single unknown counterparty; this single unknown counterparty is subject to the limits of § 238.152 as if it were a single counterparty.

(b) *Look-through approach.* A covered company that is required to calculate the amount of its gross credit exposure with respect to an issuer of assets in accordance with this paragraph (b) must calculate the amount as follows:

(1) Where all investors in the SPV rank *pari passu*, the amount of the gross credit exposure to the issuer of assets is equal to the covered company's pro rata share of the SPV multiplied by the value of the underlying asset in the SPV, valued in accordance with § 238.153(a); and

(2) Where all investors in the SPV do not rank *pari passu*, the amount of the gross credit exposure to the issuer of assets is equal to:

(i) The pro rata share of the covered company's investment in the tranche of the SPV; multiplied by

(ii) The lesser of:

(A) The market value of the tranche in which the covered company has invested, except in the case of a debt security that is held to maturity, in which case the tranche must be valued at the amortized purchase price of the securities; and

(B) The value of each underlying asset attributed to the issuer in the SPV, each as calculated pursuant to § 238.153(a).

(c) *Exposures to third parties.* (1) Notwithstanding any other requirement in this section, a covered company must recognize, for purposes of this subpart, a gross credit exposure to each third party that has a contractual obligation to provide credit or liquidity support to an SPV whose failure or material financial distress would cause a loss in the value of the covered company's SPV exposure.

(2) The amount of any gross credit exposure that is required to be recognized to a third party under paragraph (c)(1) of this section is equal to the covered company's SPV exposure, up to the maximum contractual obligation of that third party to the SPV, valued in accordance with § 238.153(a). (This gross credit exposure is in addition to the covered company's gross credit exposure to the SPV or the issuers of assets of the SPV, calculated in accordance with paragraphs (a) and (b) of this section.)

(3) A covered company must aggregate the gross credit exposure to a third party recognized in accordance with paragraphs (c)(1) and (2) of this section with its other gross credit exposures to that third party (that are unrelated to the SPV) for purposes of compliance with the limits of § 238.152.

**§ 238.156 Aggregation of exposures to more than one counterparty due to economic interdependence or control relationships.**

(a) *In general.* (1) If a covered company has an aggregate net credit exposure to any counterparty that exceeds 5 percent of its tier 1 capital, the covered company must assess its relationship with the counterparty under paragraph (b)(2) of this section to determine whether the counterparty is economically interdependent with one or more other counterparties of the covered company and under paragraph (c)(1) of this section to determine whether the counterparty is connected by a control relationship with one or more other counterparties.

(2) If, pursuant to an assessment required under paragraph (a)(1) of this section, the covered company determines that one or more of the factors of paragraph (b)(2) or (c)(1) of this section are met with respect to one or more counterparties, or the Board determines pursuant to paragraph (d) of this section that one or more other counterparties of a covered company are economically interdependent or that one or more other counterparties of a covered company are connected by a control relationship, the covered company must aggregate its net credit exposure to the counterparties for all purposes under this subpart, including, but not limited to, § 238.152.

(3) In connection with any request pursuant to paragraph (b)(3) or (c)(2) of this section, the Board may require the covered company to provide additional information.

(b) *Aggregation of exposures to more than one counterparty due to economic interdependence.* (1) For purposes of this paragraph, two counterparties are economically interdependent if the failure, default, insolvency, or material financial distress of one counterparty would cause the failure, default, insolvency, or material financial distress of the other counterparty, taking into account the factors in paragraph (b)(2) of this section.

(2) A covered company must assess whether the financial distress of one counterparty (counterparty A) would prevent the ability of the other counterparty (counterparty B) to fully and timely repay counterparty B's liabilities and whether the insolvency or default of counterparty A is likely to be associated with the insolvency or default of counterparty B and, therefore, these counterparties are economically interdependent, by evaluating the following:

(i) Whether 50 percent or more of one counterparty's gross revenue is derived

from, or gross expenditures are directed to, transactions with the other counterparty;

(ii) Whether counterparty A has fully or partly guaranteed the credit exposure of counterparty B, or is liable by other means, in an amount that is 50 percent or more of the covered company's net credit exposure to counterparty A;

(iii) Whether 25 percent or more of one counterparty's production or output is sold to the other counterparty, which cannot easily be replaced by other customers;

(iv) Whether the expected source of funds to repay the loans of both counterparties is the same and neither counterparty has another independent source of income from which the loans may be serviced and fully repaid;<sup>1</sup> and

(v) Whether two or more counterparties rely on the same source for the majority of their funding and, in the event of the common provider's default, an alternative provider cannot be found.

(3)(i) Notwithstanding paragraph (b)(2) of this section, if a covered company determines that one or more of the factors in paragraph (b)(2) is met, the covered company may request in writing a determination from the Board that those counterparties are not economically interdependent and that the covered company is not required to aggregate those counterparties.

(ii) Upon a request by a covered company pursuant to paragraph (b)(3) of this section, the Board may grant temporary relief to the covered company and not require the covered company to aggregate one counterparty with another counterparty provided that the counterparty could promptly modify its business relationships, such as by reducing its reliance on the other counterparty, to address any economic interdependence concerns, and provided that such relief is in the public interest and is consistent with the purpose of this subpart.

(c) *Aggregation of exposures to more than one counterparty due to certain control relationships.* (1) For purposes of this subpart, one counterparty (counterparty A) is deemed to control the other counterparty (counterparty B) if:

(i) Counterparty A owns, controls, or holds with the power to vote 25 percent or more of any class of voting securities of counterparty B; or

(ii) Counterparty A controls in any manner the election of a majority of the directors, trustees, or general partners

(or individuals exercising similar functions) of counterparty B.

(2)(i) Notwithstanding paragraph (c)(1) of this section, if a covered company determines that one or more of the factors in paragraph (c)(1) is met, the covered company may request in writing a determination from the Board that counterparty A does not control counterparty B and that the covered company is not required to aggregate those counterparties.

(ii) Upon a request by a covered company pursuant to paragraph (c)(2) of this section, the Board may grant temporary relief to the covered company and not require the covered company to aggregate counterparty A with counterparty B provided that, taking into account the specific facts and circumstances, such indicia of control does not result in the entities being connected by control relationships for purposes of this subpart, and provided that such relief is in the public interest and is consistent with the purpose of this subpart.

(d) *Board determinations for aggregation of counterparties due to economic interdependence or control relationships.* The Board may determine, after notice to the covered company and opportunity for hearing, that one or more counterparties of a covered company are:

(1) Economically interdependent for purposes of this subpart, considering the factors in paragraph (b)(2) of this section, as well as any other indicia of economic interdependence that the Board determines in its discretion to be relevant; or

(2) Connected by control relationships for purposes of this subpart, considering the factors in paragraph (c)(1) of this section and whether counterparty A:

(i) Controls the power to vote 25 percent or more of any class of voting securities of Counterparty B pursuant to a voting agreement;

(ii) Has significant influence on the appointment or dismissal of counterparty B's administrative, management, or governing body, or the fact that a majority of members of such body have been appointed solely as a result of the exercise of counterparty A's voting rights; or

(iii) Has the power to exercise a controlling influence over the management or policies of counterparty B.

(e) *Board determinations for aggregation of counterparties to prevent evasion.* Notwithstanding paragraphs (b) and (c) of this section, a covered company must aggregate its exposures to a counterparty with the covered company's exposures to another

counterparty if the Board determines in writing after notice and opportunity for hearing, that the exposures to the two counterparties must be aggregated to prevent evasions of the purposes of this subpart, including, but not limited to § 238.156.

#### § 238.157 Exemptions.

(a) *Exempted exposure categories.* The following categories of credit transactions are exempt from the limits on credit exposure under this subpart:

(1) Any direct claim on, and the portion of a claim that is directly and fully guaranteed as to principal and interest by, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, only while operating under the conservatorship or receivership of the Federal Housing Finance Agency, and any additional obligation issued by a U.S. government-sponsored entity as determined by the Board;

(2) Intraday credit exposure to a counterparty;

(3) Any trade exposure to a qualifying central counterparty related to the covered company's clearing activity, including potential future exposure arising from transactions cleared by the qualifying central counterparty and pre-funded default fund contributions;

(4) Any credit transaction with the Bank for International Settlements, the International Monetary Fund, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, the Multilateral Investment Guarantee Agency, or the International Centre for Settlement of Investment Disputes;

(5) Any credit transaction with the European Commission or the European Central Bank; and

(6) Any transaction that the Board exempts if the Board finds that such exemption is in the public interest and is consistent with the purpose of this subpart.

(b) *Exemption for Federal Home Loan Banks.* For purposes of this subpart, a covered company does not include any Federal Home Loan Bank.

(c) *Additional exemptions by the Board.* The Board may, by regulation or order, exempt transactions, in whole or in part, from the definition of the term "credit exposure," if the Board finds that the exemption is in the public interest.

#### § 238.158 Compliance.

(a) *Scope of compliance.* (1) Using all available data, including any data required to be maintained or reported to the Federal Reserve under this subpart,

<sup>1</sup> An employer will not be treated as a source of repayment under this paragraph because of wages and salaries paid to an employee.

a covered company must comply with the requirements of this subpart on a daily basis at the end of each business day.

(2) A covered company must report its compliance to the Federal Reserve as of the end of the quarter, unless the Board determines and notifies that company in writing that more frequent reporting is required.

(3) In reporting its compliance, a covered company must calculate and include in its gross credit exposure to an issuer of eligible collateral or eligible guarantor the amounts of eligible collateral, eligible guarantees, eligible equity derivatives, and eligible credit derivatives that were provided to the covered company in connection with credit transactions with exempt counterparties, valued in accordance with and as required by § 238.154(b) through (d) and § 238.154 (g).

(b) *Qualifying master netting agreement.* With respect to any qualifying master netting agreement, a covered company must establish and maintain procedures that meet or exceed the requirements of § 217.3(d) of this chapter to monitor possible changes in relevant law and to ensure that the agreement continues to satisfy these requirements.

(c) *Noncompliance.* (1) Except as otherwise provided in this section, if a covered company is not in compliance with this subpart with respect to a counterparty solely due to the circumstances listed in paragraphs (c)(2)(i) through (v) of this section, the covered company will not be subject to enforcement actions for a period of 90 days (or, with prior notice to the company, such shorter or longer period determined by the Board, in its sole discretion, to be appropriate to preserve the safety and soundness of the covered company), if the covered company uses reasonable efforts to return to compliance with this subpart during this period. The covered company may not engage in any additional credit transactions with such a counterparty in contravention of this rule during the period of noncompliance, except as provided in paragraph (c)(2) of this section.

(2) A covered company may request a special temporary credit exposure limit exemption from the Board. The Board may grant approval for such exemption in cases where the Board determines that such credit transactions are necessary or appropriate to preserve the safety and soundness of the covered company. In acting on a request for an exemption, the Board will consider the following:

(i) A decrease in the covered company's capital stock and surplus;

(ii) The merger of the covered company with another covered company;

(iii) A merger of two counterparties; or

(iv) An unforeseen and abrupt change in the status of a counterparty as a result of which the covered company's credit exposure to the counterparty becomes limited by the requirements of this section; or

(v) Any other factor(s) the Board determines, in its discretion, is appropriate.

(d) *Other measures.* The Board may impose supervisory oversight and additional reporting measures that it determines are appropriate to monitor compliance with this subpart. Covered companies must furnish, in the manner and form prescribed by the Board, such information to monitor compliance with this subpart and the limits therein as the Board may require.

■ 13. Add subpart R to read as follows:

**Subpart R—Company-Run Stress Test Requirements for Foreign Savings and Loan Holding Companies With Total Consolidated Assets Over \$250 Billion**

Sec.

238.160 Definitions.

238.161 Applicability.

238.162 Capital stress testing requirements.

**Subpart R—Company-Run Stress Test Requirements for Foreign Savings and Loan Holding Companies With Total Consolidated Assets Over \$250 Billion**

**§ 238.160 Definitions.**

For purposes of this subpart, the following definitions apply:

(a) *Foreign savings and loan holding company* means a savings and loan holding company as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a(a)) that is incorporated or organized under the laws of a country other than the United States.

(b) *Pre-provision net revenue* means revenue less expenses before adjusting for total loan loss provisions.

(c) *Stress test cycle* has the same meaning as in subpart O of this part.

(d) *Total loan loss provisions* means the amount needed to make reserves adequate to absorb estimated credit losses, based upon management's evaluation of the loans and leases that the company has the intent and ability to hold for the foreseeable future or until maturity or payoff, as determined under applicable accounting standards.

**§ 238.161 Applicability.**

(a) *Applicability for foreign savings and loan holding companies with total*

*consolidated assets of more than \$250 billion*—(1) *General.* A foreign savings and loan holding company must comply with the stress test requirements set forth in this section beginning on the first day of the ninth quarter following the date on which its average total consolidated assets exceed \$250 billion.

(2) *Cessation of requirements.* A foreign savings and loan holding company will remain subject to requirements of this subpart until the date on which the foreign savings and loan holding company's total consolidated assets are below \$250 billion for each of four most recent calendar quarters.

(b) [Reserved]

**§ 238.162 Capital stress testing requirements.**

(a) *In general.* (1) A foreign savings and loan holding company subject to this subpart must:

(i) Be subject on a consolidated basis to a capital stress testing regime by its home-country supervisor that meets the requirements of paragraph (a)(2) of this section; and

(ii) Conduct such stress tests or be subject to a supervisory stress test and meet any minimum standards set by its home-country supervisor with respect to the stress tests.

(2) The capital stress testing regime of a foreign savings and loan holding company's home-country supervisor must include:

(i) A supervisory capital stress test conducted by the relevant home-country supervisor or an evaluation and review by the home-country supervisor of an internal capital adequacy stress test conducted by the foreign savings and loan holding company, conducted on at least a biennial basis; and

(ii) Requirements for governance and controls of stress testing practices by relevant management and the board of directors (or equivalent thereof).

(b) *Additional standards.* (1) Unless the Board otherwise determines in writing, a foreign savings and loan holding company that does not meet each of the requirements in paragraphs (a)(1) and (2) of this section must:

(i) Conduct an annual stress test of its U.S. subsidiaries to determine whether those subsidiaries have the capital necessary to absorb losses as a result of adverse economic conditions; and

(ii) Report on at least a biennial basis a summary of the results of the stress test to the Board that includes a description of the types of risks included in the stress test, a description of the conditions or scenarios used in the stress test, a summary description of the methodologies used in the stress



test, estimates of aggregate losses, pre-provision net revenue, total loan loss provisions, net income before taxes and pro forma regulatory capital ratios required to be computed by the home-country supervisor of the foreign savings and loan holding company and any other relevant capital ratios, and an explanation of the most significant causes for any changes in regulatory capital ratios.

(2) An enterprise-wide stress test that is approved by the Board may meet the stress test requirement of paragraph (b)(1)(ii) of this section.

#### **PART 242—DEFINITIONS RELATING TO TITLE I OF THE DODD-FRANK ACT (REGULATION PP)**

■ 14. The authority citation for part 242 continues to read as follows:

**Authority:** 12 U.S.C. 5311.

■ 15. In § 242.1, paragraph (b)(2)(ii)(B) is revised to read as follows:

##### **§ 242.1 Authority and purpose**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(B) A bank holding company or foreign bank subject to the Bank Holding Company Act (BHC Act) (12 U.S.C. 1841 *et seq.*) that is a bank holding company described in section 165(a) of the Dodd-Frank Act (12 U.S.C. 5365(a)).

■ 16. Section 242.4 is revised to read as follows:

##### **§ 242.4 Significant nonbank financial companies and significant bank holding companies**

For purposes of Title I of the Dodd-Frank Act, the following definitions shall apply:

(a) *Significant nonbank financial company.* A “significant nonbank financial company” means—

(1) Any nonbank financial company supervised by the Board; and

(2) Any other nonbank financial company that had \$100 billion or more in total consolidated assets (as determined in accordance with applicable accounting standards) as of the end of its most recently completed fiscal year.

(b) *Significant bank holding company.* A “significant bank holding company” means any bank holding company or company that is, or is treated in the United States as, a bank holding company, that had \$100 billion or more in total consolidated assets as of the end of the most recently completed calendar year, as reported on either the Federal Reserve’s FR Y–9C (Consolidated

Financial Statement for Holding Companies), or any successor form thereto, or the Federal Reserve’s Form FR Y–7Q (Capital and Asset Report for Foreign Banking Organizations), or any successor form thereto.

#### **PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)**

■ 17. The authority citation for part 252 is revised to read as follows:

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

##### **Subpart A—General Provisions**

■ 18. Revise § 252.1 to read as follows:

###### **§ 252.1 Authority and purpose.**

(a) *Authority.* This part is issued by the Board of Governors of the Federal Reserve System (the Board) under sections 162, 165, 167, and 168 of Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376, 1423–1432, 12 U.S.C. 5362, 5365, 5367, and 5368); section 9 of the Federal Reserve Act (12 U.S.C. 321–338a); section 5(b) of the Bank Holding Company Act (12 U.S.C. 1844(b)); sections 8 and 39 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b) and 1831p–1); the International Banking Act (12 U.S.C. 3101 *et seq.*); the Foreign Bank Supervision Enhancement Act (12 U.S.C. 3101 note); and 12 U.S.C. 3904, 3906–3909, and 4808.

(b) *Purpose.* This part implements certain provisions of section 165 of the Dodd-Frank Act (12 U.S.C. 5365), which require the Board to establish enhanced prudential standards for certain bank holding companies, foreign banking organizations, nonbank financial companies supervised by the Board, and certain other companies.

■ 19. Revise § 252.2 to read as follows:

###### **§ 252.2 Definitions.**

Unless otherwise specified, the following definitions apply for purposes of this part:

*Affiliate* has the same meaning as in section 2(k) of the Bank Holding Company Act (12 U.S.C. 1841(k)) and 12 CFR 225.2(a).

*Applicable accounting standards* means GAAP, international financial reporting standards, or such other accounting standards that a company uses in the ordinary course of its business in preparing its consolidated financial statements.

*Average combined U.S. assets* means the average of combined U.S. assets for

the four most recent calendar quarters or, if the banking organization has not reported combined U.S. assets for each of the four most recent calendar quarters, the combined U.S. assets for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

*Average cross-jurisdictional activity* means the average of cross-jurisdictional activity for the four most recent calendar quarters or, if the banking organization has not reported cross-jurisdictional activity for each of the four most recent calendar quarters, the cross-jurisdictional activity for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

*Average off-balance sheet exposure* means the average of off-balance sheet exposure for the four most recent calendar quarters or, if the banking organization has not reported total exposure and total consolidated assets or combined U.S. assets, as applicable, for each of the four most recent calendar quarters, the off-balance sheet exposure for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

*Average total consolidated assets* means the average of total consolidated assets for the four most recent calendar quarters or, if the banking organization has not reported total consolidated assets for each of the four most recent calendar quarters, the total consolidated assets for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

*Average total nonbank assets* means the average of total nonbank assets for the four most recent calendar quarters or, if the banking organization has not reported or calculated total nonbank assets for each of the four most recent calendar quarters, the total nonbank assets for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

*Average U.S. non-branch assets* means the average of U.S. non-branch assets for the four most recent calendar quarters or, if the banking organization has not reported the total consolidated assets of its top-tier U.S. subsidiaries for each of the four most recent calendar quarters, the U.S. non-branch assets for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

*Average weighted short-term wholesale funding* means the average of weighted short-term wholesale funding for each of the four most recent calendar quarters or, if the banking organization has not reported weighted short-term wholesale funding for each of the four

most recent calendar quarters, the weighted short-term wholesale funding for the most recent calendar quarter or average of the most recent calendar quarters, as applicable.

*Bank holding company* has the same meaning as in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)) and 12 CFR 225.2(c).

*Banking organization* means:

(1) A bank holding company that is a U.S. bank holding company;

(2) A U.S. intermediate holding company; or

(3) A foreign banking organization.

*Board* means the Board of Governors of the Federal Reserve System.

*Category II bank holding company* means a U.S. bank holding company identified as a Category II banking organization pursuant to § 252.5.

*Category II foreign banking organization* means a foreign banking organization identified as a Category II banking organization pursuant to § 252.5.

*Category II U.S. intermediate holding company* means a U.S. intermediate holding company identified as a Category II banking organization pursuant to § 252.5.

*Category III bank holding company* means a U.S. bank holding company identified as a Category III banking organization pursuant to § 252.5.

*Category III foreign banking organization* means a foreign banking organization identified as a Category III banking organization pursuant to § 252.5.

*Category III U.S. intermediate holding company* means a U.S. intermediate holding company identified as a Category III banking organization pursuant to § 252.5.

*Category IV bank holding company* means a U.S. bank holding company identified as a Category IV banking organization pursuant to § 252.5.

*Category IV foreign banking organization* means a foreign banking organization identified as a Category IV banking organization pursuant to § 252.5.

*Category IV U.S. intermediate holding company* means a U.S. intermediate holding company identified as a Category IV banking organization pursuant to § 252.5.

*Combined U.S. assets* means the sum of the consolidated assets of each top-tier U.S. subsidiary of the foreign banking organization (excluding any section 2(h)(2) company, if applicable) and the total assets of each U.S. branch and U.S. agency of the foreign banking organization, as reported by the foreign banking organization on the FR Y-15 or FR Y-7Q.

*Combined U.S. operations* means:

(1) The U.S. branches and agencies of the foreign banking organization; and

(2) The U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company, if applicable) and subsidiaries of such U.S. subsidiaries.

*Company* means a corporation, partnership, limited liability company, depository institution, business trust, special purpose entity, association, or similar organization.

*Control* has the same meaning as in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)), and the terms controlled and controlling shall be construed consistently with the term control.

*Council* means the Financial Stability Oversight Council established by section 111 of the Dodd-Frank Act (12 U.S.C. 5321).

*Credit enhancement* means a qualified financial contract of the type set forth in section 210(c)(8)(D)(ii)(XII), (iii)(X), (iv)(V), (v)(VI), or (vi)(VI) of Title II of the Dodd-Frank Act (12 U.S.C. 5390(c)(8)(D)(ii)(XII), (iii)(X), (iv)(V), (v)(VI), or (vi)(VI)) or a credit enhancement that the Federal Deposit Insurance Corporation determines by regulation is a qualified financial contract pursuant to section 210(c)(8)(D)(i) of Title II of the Act (12 U.S.C. 5390(c)(8)(D)(i)).

*Cross-jurisdictional activity*. The cross-jurisdictional activity of a banking organization is equal to the cross-jurisdictional activity of the banking organization as reported on the FR Y-15.

*Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

*DPC branch subsidiary* means any subsidiary of a U.S. branch or a U.S. agency acquired, or formed to hold assets acquired, in the ordinary course of business and for the sole purpose of securing or collecting debt previously contracted in good faith by that branch or agency.

*Foreign banking organization* has the same meaning as in 12 CFR 211.21(o), provided that if the top-tier foreign banking organization is incorporated in or organized under the laws of any State, the foreign banking organization shall not be treated as a foreign banking organization for purposes of this part.

*FR Y-7* means the Annual Report of Foreign Banking Organizations reporting form.

*FR Y-7Q* means the Capital and Asset Report for Foreign Banking Organizations reporting form.

*FR Y-9C* means the Consolidated Financial Statements for Holding Companies reporting form.

*FR Y-9LP* means the Parent Company Only Financial Statements of Large Holding Companies.

*FR Y-15* means the Systemic Risk Report.

*Global methodology* means the assessment methodology and the higher loss absorbency requirement for global systemically important banks issued by the Basel Committee on Banking Supervision, as updated from time to time.

*Global systemically important banking organization* means a global systemically important bank, as such term is defined in the global methodology.

*Global systemically important BHC* means a bank holding company identified as a global systemically important BHC pursuant to 12 CFR 217.402.

*Global systemically important foreign banking organization* means a top-tier foreign banking organization that is identified as a global systemically important foreign banking organization under § 252.147(b)(4) or § 252.153(b)(4) of this part.

*GAAP* means generally accepted accounting principles as used in the United States.

*Home country*, with respect to a foreign banking organization, means the country in which the foreign banking organization is chartered or incorporated.

*Home country resolution authority*, with respect to a foreign banking organization, means the governmental entity or entities that under the laws of the foreign banking organization's home country has responsibility for the resolution of the top-tier foreign banking organization.

*Home-country supervisor*, with respect to a foreign banking organization, means the governmental entity or entities that under the laws of the foreign banking organization's home country has responsibility for the supervision and regulation of the top-tier foreign banking organization.

*Nonbank financial company supervised by the Board* means a company that the Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

*Non-U.S. affiliate* means any affiliate of a foreign banking organization that is incorporated or organized in a country other than the United States.

*Off-balance sheet exposure.* (1) The off-balance sheet exposure of a U.S. bank holding company or U.S. intermediate holding company is equal to:

(i) The total exposure of such banking organization, as reported by the banking organization on the FR Y-15; minus

(ii) The total consolidated assets of such banking organization for the same calendar quarter.

(2) The off-balance sheet exposure of a foreign banking organization is equal to:

(i) The total exposure of the combined U.S. operations of the foreign banking organization, as reported by the foreign banking organization on the FR Y-15; minus

(ii) The combined U.S. assets of the foreign banking organization for the same calendar quarter.

*Publicly traded* means an instrument that is traded on:

(1) Any exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(2) Any non-U.S.-based securities exchange that:

(i) Is registered with, or approved by, a non-U.S. national securities regulatory authority; and

(ii) Provides a liquid, two-way market for the instrument in question, meaning that there are enough independent bona fide offers to buy and sell so that a sales price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined promptly and a trade can be settled at such price within a reasonable time period conforming with trade custom.

(3) A company can rely on its determination that a particular non-U.S.-based securities exchange provides a liquid two-way market unless the Board determines that the exchange does not provide a liquid two-way market.

*Section 2(h)(2) company* has the same meaning as in section 2(h)(2) of the Bank Holding Company Act (12 U.S.C. 1841(h)(2)).

*State* means any state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

*State member bank* has the same meaning as in 12 CFR 208.2(g).

*Subsidiary* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

*Top-tier foreign banking organization*, with respect to a foreign bank, means the top-tier foreign banking organization or, alternatively, a subsidiary of the top-tier foreign banking organization designated by the Board.

*Total consolidated assets.* (1) Total consolidated assets of a U.S. bank holding company or a U.S. intermediate holding company is equal to the total consolidated assets of such banking organization calculated based on the average of the balances as of the close of business for each day for the calendar quarter or an average of the balances as of the close of business on each Wednesday during the calendar quarter, as reported on the FR Y-9C.

(2) Total consolidated assets of a foreign banking organization is equal to the total consolidated assets of the foreign banking organization, as reported on the FR Y-7Q.

(3) Total consolidated assets of a state member bank is equal to the total consolidated assets as reported by a state member bank on its Consolidated Report of Condition and Income (Call Report).

*Total nonbank assets.* (1) Total nonbank assets of a U.S. bank holding company or U.S. intermediate holding company is equal to the total nonbank assets of such banking organization, as reported on the FR Y-9LP.

(2) Total nonbank assets of a foreign banking organization is equal to:

(i) The sum of the total nonbank assets of any U.S. intermediate holding company, if any, as reported on the FR Y-9LP; plus

(ii) The assets of the foreign banking organization's nonbank U.S. subsidiaries excluding the U.S. intermediate holding company, if any; plus

(iii) The sum of the foreign banking organization's equity investments in unconsolidated U.S. subsidiaries, excluding equity investments in any section 2(h)(2) company; minus

(iv) The assets of any section 2(h)(2) company.

*U.S. agency* has the same meaning as the term "agency" in § 211.21(b) of this chapter.

*U.S. bank holding company* means a bank holding company that is:

(1) Incorporated in or organized under the laws of the United States or any State; and

(2) Not a consolidated subsidiary of a bank holding company that is incorporated in or organized under the laws of the United States or any State.

*U.S. branch* has the same meaning as the term "branch" in § 211.21(e) of this chapter.

*U.S. branches and agencies* means the U.S. branches and U.S. agencies of a foreign banking organization.

*U.S. government agency* means an agency or instrumentality of the United States whose obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States.

*U.S. government-sponsored enterprise* means an entity originally established or chartered by the U.S. government to serve public purposes specified by the U.S. Congress, but whose obligations are not explicitly guaranteed by the full faith and credit of the United States.

*U.S. intermediate holding company* means a top-tier U.S. company that is required to be established pursuant to § 252.147 or § 252.153.

*U.S. non-branch assets.* U.S. non-branch assets are equal to the sum of the consolidated assets of each top-tier U.S. subsidiary of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary, if applicable) as reported on the FR Y-7Q. In calculating U.S. non-branch assets, a foreign banking organization must reduce its U.S. non-branch assets by the amount corresponding to balances and transactions between a top-tier U.S. subsidiary and any other top-tier U.S. subsidiary (excluding any 2(h)(2) company or DPC branch subsidiary) to the extent such items are not already eliminated in consolidation.

*U.S. subsidiary* means any subsidiary that is incorporated in or organized under the laws of the United States or any State, commonwealth, territory, or possession of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

*Weighted short-term wholesale funding* is equal to the weighted short-term wholesale funding of a banking organization, as reported on the FR Y-15.

■ 19. In § 252.3, add paragraph (c) to read as follows:

**§ 252.3 Reservation of authority.**

\* \* \* \* \*

(c) *Reservation of authority for certain foreign banking organizations.* The Board may permit a foreign banking organization to comply with the requirements of this part through a subsidiary. In making this determination, the Board shall consider:

(1) The ownership structure of the foreign banking organization, including

whether the foreign banking organization is owned or controlled by a foreign government;

(2) Whether the action would be consistent with the purposes of this part; and

(3) Any other factors that the Board determines are relevant.

■ 20. Section 252.5 is added to read as follows:

**§ 252.5 Categorization of banking organizations.**

(a) *General.* (1) A U.S. bank holding company with average total consolidated assets of \$100 billion or more must determine its category among the four categories described in paragraphs (b) through (e) of this section at least quarterly.

(2) A U.S. intermediate holding company with average total consolidated assets of \$100 billion or more must determine its category among the three categories described in paragraphs (c) through (e) of this section at least quarterly.

(3) A foreign banking organization with average total consolidated assets of \$100 billion or more and average combined U.S. assets of \$100 billion or more must determine its category among the three categories described in paragraphs (c) through (e) of this section at least quarterly.

(b) *Global systemically important BHC.* A banking organization is a global systemically important BHC if it is identified as a global systemically important BHC pursuant to 12 CFR 217.402.

(c) *Category II.* (1) A banking organization is a Category II banking organization if the banking organization:

(i) Has:

(A)(1) For a U.S. bank holding company or a U.S. intermediate holding company, \$700 billion or more in average total consolidated assets;

(2) For a foreign banking organization, \$700 billion or more in average combined U.S. assets; or

(B)(1) \$75 billion or more in average cross-jurisdictional activity; and

(2)(i) For a U.S. bank holding company or a U.S. intermediate holding company, \$100 billion or more in average total consolidated assets; or

(ii) For a foreign banking organization, \$100 billion or more in average combined U.S. assets; and

(ii) Is not a global systemically important BHC.

(2) After meeting the criteria in paragraph (c)(1) of this section, a banking organization continues to be a Category II banking organization until the banking organization:

(i) Has:

(A)(1) For a U.S. bank holding company or a U.S. intermediate holding company, less than \$700 billion in total consolidated assets for each of the four most recent calendar quarters; or

(2) For a foreign banking organization, less than \$700 billion in combined U.S. assets for each of the four most recent calendar quarters; and

(B) Less than \$75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters;

(ii) Has:

(A) For a U.S. bank holding company or a U.S. intermediate holding company, less than \$100 billion in total consolidated assets for each of the four most recent calendar quarters;

(B) For a foreign banking organization, less than \$100 billion in combined U.S. assets for each of the four most recent calendar quarters; or

(iii) Meets the criteria in paragraph (b) to be a global systemically important BHC.

(d) *Category III.* (1) A banking organization is a Category III banking organization if the banking organization:

(i) Has:

(A)(1) For a U.S. bank holding company or a U.S. intermediate holding company, \$250 billion or more in average total consolidated assets; or

(2) For a foreign banking organization, \$250 billion or more in average combined U.S. assets; or

(B)(1)(i) For a U.S. bank holding company or a U.S. intermediate holding company, \$100 billion or more in average total consolidated assets; or

(ii) For a foreign banking organization, \$100 billion or more in average combined U.S. assets; and

(2) At least:

(i) \$75 billion in average total nonbank assets;

(ii) \$75 billion in average weighted short-term wholesale funding; or

(iii) \$75 billion in average off-balance sheet exposure;

(ii) Is not a global systemically important BHC; and

(iii) Is not a Category II banking organization.

(2) After meeting the criteria in paragraph (d)(1) of this section, a banking organization continues to be a Category III banking organization until the banking organization:

(i) Has:

(A)(1) For a U.S. bank holding company or a U.S. intermediate holding company, less than \$250 billion in total consolidated assets for each of the four most recent calendar quarters; or

(2) For a foreign banking organization, less than \$250 billion in combined U.S. assets for each of the four most recent calendar quarters;

(B) Less than \$75 billion in total nonbank assets for each of the four most recent calendar quarters;

(C) Less than \$75 billion in weighted short-term wholesale funding for each of the four most recent calendar quarters; and

(D) Less than \$75 billion in off-balance sheet exposure for each of the four most recent calendar quarters; or

(ii) Has:

(A) For a U.S. bank holding company or a U.S. intermediate holding company, less than \$100 billion in total consolidated assets for each of the four most recent calendar quarters; or

(B) For a foreign banking organization, less than \$100 billion in combined U.S. assets for each of the four most recent calendar quarters;

(iii) Meets the criteria in paragraph (b) of this section to be a global systemically important BHC; or

(iv) Meets the criteria in paragraph (c)(1) of this section to be a Category II banking organization.

(e) *Category IV.* (1) A banking organization is a Category IV banking organization if the banking organization:

(i) Is not global systemically important BHC;

(ii) Is not a Category II banking organization;

(iii) Is not a Category III banking organization; and

(iv) Has:

(A) For a U.S. bank holding company or a U.S. intermediate holding company, average total consolidated assets of \$100 billion or more; or

(B) For a foreign banking organization, average combined U.S. assets of \$100 billion or more.

(2) After meeting the criteria in paragraph (e)(1), a banking organization continues to be a Category IV banking organization until the banking organization:

(i) Has:

(A) For a U.S. bank holding company or a U.S. intermediate holding company, less than \$100 billion in total consolidated assets for each of the four most recent calendar quarters;

(B) For a foreign banking organization, less than \$100 billion in combined U.S. assets for each of the four most recent calendar quarters;

(ii) Meets the criteria in paragraph (b) of this section to be a global systemically important BHC;

(iii) Meets the criteria in paragraph (c)(1) of this section to be a Category II banking organization; or

(iv) Meets the criteria in paragraph (d)(1) of this section to be a Category III banking organization.

■ 21. Revise the heading of subpart B to read as follows:

**Subpart B—Company-Run Stress Test Requirements for State Member Banks With Total Consolidated Assets Over \$250 Billion**

■ 22. Section 252.11 is revised to read as follows:

**§ 252.11 Authority and purpose.**

(a) *Authority.* 12 U.S.C. 321–338a, 1818, 1831p–1, 3906–3909, 5365.  
 (b) *Purpose.* This subpart implements section 165(i)(2) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)), which requires state member banks with total consolidated assets of greater than \$250 billion to conduct stress tests. This subpart also establishes definitions of stress tests and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

■ 23. Section 252.12 is revised to read as follows:

**§ 252.12 Definitions.**

For purposes of this subpart, the following definitions apply:  
*Advanced approaches* means the regulatory capital requirements at 12 CFR 217, subpart E, as applicable, and any successor regulation.  
*Asset threshold* means average total consolidated assets of greater than \$250 billion.  
*Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a state member bank, and that reflect the consensus views of the economic and financial outlook.  
*Capital action* has the same meaning as in 12 CFR 225.8(d).  
*Covered company subsidiary* means a state member bank that is a subsidiary of a covered company as defined in subpart F of this part.  
*Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.  
*Pre-provision net revenue* means the sum of net interest income and non-

interest income less expenses before adjusting for loss provisions.  
*Provision for credit losses* means:  
 (1) With respect to a state member bank that has adopted the current expected credit losses methodology under GAAP, the provision for credit losses, as would be reported by the state member bank on the Call Report in the current stress test cycle; and  
 (2) With respect to a state member bank that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as would be reported by the state member bank on the Call Report in the current stress test cycle.  
*Regulatory capital ratio* means a capital ratio for which the Board has established minimum requirements for the state member bank by regulation or order, including, as applicable, the state member bank’s regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12; except that the state member bank shall not use the advanced approaches to calculate its regulatory capital ratios.  
*Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a state member bank that the Board determines are appropriate for use in the company-run stress tests, including, but not limited to baseline and severely adverse scenarios.  
*Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a state member bank and that overall are significantly more severe than those associated with the baseline scenario and may include trading or other additional components.  
*Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a state member bank over the planning horizon, taking into account the current condition, risks, exposures, strategies, and activities.  
*Stress test cycle* means the period beginning on January 1 of a calendar year and ending on December 31 of that year.

*Subsidiary* has the same meaning as in 12 CFR 225.2(o).

■ 24. Section 252.13 is revised to read as follows:

**§ 252.13 Applicability.**

(a) *Scope—(1) Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any state member bank with average total consolidated assets of greater than \$250 billion.

(2) *Ongoing applicability.* A state member bank (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below \$250 billion for each of four consecutive quarters, effective on the as-of date of the fourth consecutive Call Report.

(b) *Transition period.* (1) A state member bank that exceeds the asset threshold for the first time on or before September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the second calendar year after the state member bank becomes subject to this subpart, unless that time is extended by the Board in writing.

(2) A state member bank that exceeds the asset threshold for the first time after September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the third year after the state member bank becomes subject to this subpart, unless that time is extended by the Board in writing.

■ 25. Section 252.14 is revised to read as follows:

**§ 252.14 Stress test.**

(a) *In general.* (1) A state member bank must conduct a stress test as required under this subpart.  
 (2) *Frequency—(i) General.* Except as provided in paragraph (a)(2)(ii) of this section, a state member bank must conduct a stress test according to the frequency in table 1 to § 252.14(a)(2)(i).

TABLE 1 TO § 252.14(a)(2)(i)

If the state member bank is a	Then the stress test must be conducted
Subsidiary of a global systemically important BHC .....	Annually, by April 5 of each calendar year, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Subsidiary of a Category II bank holding company .....	Annually, by April 5 of each calendar year, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Subsidiary of a Category II U.S. intermediate holding company .....	Annually, by April 5 of each calendar year, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

TABLE 1 TO § 252.14(a)(2)(i)—Continued

If the state member bank is a	Then the stress test must be conducted
Not a subsidiary of a: ..... (A) Global systemically important BHC; (B) Category II bank holding company; or (C) Category II U.S. intermediate holding company.	Biennially, by April 5 of each calendar year ending in an even number, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(ii) *Change in frequency.* The Board may require a state member bank to conduct a stress test on a more or less frequent basis than would be required under paragraph (a)(2)(i) of this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Notice and response—(i) Notification of change in frequency.* If the Board requires a state member bank to change the frequency of the stress test under paragraph (a)(2)(ii) of this section, the Board will notify the state member bank in writing and provide a discussion of the basis for its determination.

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under paragraph (a)(3)(i) of this section, a state member bank may request in writing that the Board reconsider the requirement to conduct a stress test on a more or less frequent basis than would be required under paragraph (a)(2)(i) of this section. A state member bank's request for reconsideration must include an explanation as to why the request for reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(b) *Scenarios provided by the Board—(1) In general.* In conducting a stress test under this section, a state member bank must, at a minimum, use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, the Board will provide a description of the scenarios no later than February 15 of each calendar year.

(2) *Additional components.* (i) The Board may require a state member bank with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its severely adverse scenario in the stress test required by this section. The Board may also require a state member bank that is subject to 12 CFR part 217, subpart F or that is a subsidiary of a bank holding company that is subject to section § 252.54(b)(2)(i) to include a trading and counterparty component in the state member bank's severely

adverse scenario in the stress test required by this section. The data used in this component must be as of a date between October 1 of the previous calendar year and March 1 of the calendar year in which the stress test is performed, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of that calendar year.

(ii) The Board may require a state member bank to include one or more additional components in its severely adverse scenario in the stress test required by this section based on the state member bank's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a state member bank to include one or more additional scenarios in the stress test required by this section based on the state member bank's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response—(i) Notification of additional component or scenario.* If the Board requires a state member bank to include one or more additional components in its severely adverse scenario under paragraph (b)(2) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing by December 31 and include a discussion of the basis for its determination.

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under paragraph (b)(4)(i) of this section, the state member bank may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the request for reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the state member bank with a description of any

additional component(s) or additional scenario(s) by March 1.

■ 26. In § 252.15, paragraphs (a) introductory text and (b) are revised and paragraph (c) is removed.

The revisions read as follows:

**§ 252.15 Methodologies and practices.**

(a) *Potential impact on capital.* In conducting a stress test under § 252.14, for each quarter of the planning horizon, a state member bank must estimate the following for each scenario required to be used:

\* \* \* \* \*

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

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a state member bank must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the company may warrant, but no less than each year that a stress test is conducted. The board of directors and senior management of the state member bank must receive a summary of the results of the stress test conducted under this section.

(3) *Role of stress testing results.* The board of directors and senior management of a state member bank must consider the results of the stress test in the normal course of business, including but not limited to, the state member bank's capital planning, assessment of capital adequacy, and risk management practices.

■ 27. In § 252.16, paragraphs (a) and (b) are revised to read as follows:

**§ 252.16 Reports of stress test results.**

(a) *Reports to the Board of stress test results*—(1) *General*. A state member bank must report the results of the stress test to the Board in the manner and form prescribed by the Board, in accordance with paragraphs (a)(2) of this section.

(2) *Timing*. For each stress test cycle in which a stress test is conducted:

(i) A state member bank that is a covered company subsidiary must report the results of the stress test to the Board by April 5, unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary must report the results of the stress test to the Board by July 31, unless that time is extended by the Board in writing.

(b) *Contents of reports*. The report required under paragraph (a) of this section must include the following information for the baseline scenario, severely adverse scenario, and any other scenario required under § 252.14(b)(3):

\* \* \* \* \*

■ 28. In § 252.17, paragraphs (a) and (b) are revised to read as follows:

**§ 252.17 Disclosure of stress test results.**

(a) *Public disclosure of results*—(1) *General*. A state member bank must publicly disclose a summary of the results of the stress test required under this subpart.

(2) *Timing*. For each stress test cycle in which a stress test is conducted:

(i) A state member bank that is a covered company subsidiary must publicly disclose a summary of the results of the stress test within 15 calendar days after the Board discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(b), unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary must publicly disclose a summary of the results of the stress test in the period beginning on October 15 and ending on October 31, unless that time is extended by the Board in writing.

(3) *Disclosure method*. The summary required under this section may be disclosed on the website of a state member bank, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results*—(1) *State member banks that are subsidiaries of bank holding companies*. A state member bank that is a subsidiary of a bank holding company satisfies the public disclosure requirements under this subpart if the bank holding company publicly discloses summary results of its stress test pursuant to this section or § 252.58, unless the Board

determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the state member bank and requires the state member bank to make public disclosures.

(2) *State member banks that are not subsidiaries of bank holding companies*. A state member bank that is not a

subsidiary of a bank holding company or that is required to make disclosures under paragraph (b)(1) of this section must publicly disclose, at a minimum, the following information regarding the severely adverse scenario:

(i) A description of the types of risks being included in the stress test;

(ii) A summary description of the methodologies used in the stress test;

(iii) Estimates of—

(A) Aggregate losses;

(B) Pre-provision net revenue

(C) Provision for credit losses;

(D) Net income; and

(E) Pro forma regulatory capital ratios and any other capital ratios specified by the Board; and

(iv) An explanation of the most significant causes for the changes in regulatory capital ratios.

\* \* \* \* \*

■ 29. The heading of subpart C is revised to read as follows:

**Subpart C—Risk Committee Requirement for Bank Holding Companies With Total Consolidated Assets of \$50 Billion or More and Less Than \$100 Billion**

■ 30. Section 252.21 is revised to read as follows:

**§ 252.21 Applicability.**

(a) *General applicability*. A bank holding company must comply with the risk-committee requirements set forth in this subpart beginning on the first day of the ninth quarter following the date on which its average total consolidated assets equal or exceed \$50 billion.

(b) *Cessation of requirements*. A bank holding company will remain subject to the requirements of this subpart until the earlier of the date on which:

(1) Its total consolidated assets are below \$50 billion for each of four consecutive calendar quarters; and

(2) It becomes subject to the requirements of subpart D of this part.

■ 31. Section 252.22 is revised to read as follows:

**§ 252.22 Risk committee requirement for bank holding companies with total consolidated assets of \$50 billion or more.**

(a) *Risk committee*—(1) *General*. A bank holding company subject to this

subpart must maintain a risk committee that approves and periodically reviews the risk-management policies of the bank holding company's global operations and oversees the operation of the bank holding company's global risk-management framework.

(2) *Risk-management framework*. The bank holding company's global risk-management framework must be commensurate with its structure, risk profile, complexity, activities, and size, and must include:

(i) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for its global operations; and

(ii) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(A) Processes and systems for identifying and reporting risks and risk-management deficiencies, including regarding emerging risks, and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies for its global operations;

(B) Processes and systems for establishing managerial and employee responsibility for risk management;

(C) Processes and systems for ensuring the independence of the risk-management function; and

(D) Processes and systems to integrate risk management and associated controls with management goals and its compensation structure for its global operations.

(3) *Corporate governance requirements*. The risk committee must:

(i) Have a formal, written charter that is approved by the bank holding company's board of directors;

(ii) Be an independent committee of the board of directors that has, as its sole and exclusive function, responsibility for the risk-management policies of the bank holding company's global operations and oversight of the operation of the bank holding company's global risk-management framework;

(iii) Report directly to the bank holding company's board of directors;

(iv) Receive and review regular reports on a not less than a quarterly basis from the bank holding company's chief risk officer provided pursuant to paragraph (b)(3)(ii) of this section; and

(v) Meet at least quarterly, or more frequently as needed, and fully document and maintain records of its proceedings, including risk-management decisions.

(4) *Minimum member requirements.*

The risk committee must:

(i) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(ii) Be chaired by a director who:

(A) Is not an officer or employee of the bank holding company and has not been an officer or employee of the bank holding company during the previous three years;

(B) Is not a member of the immediate family, as defined in 12 CFR 225.41(b)(3), of a person who is, or has been within the last three years, an executive officer of the bank holding company, as defined in 12 CFR 215.2(e)(1); and

(C)(1) Is an independent director under Item 407 of the Securities and Exchange Commission's Regulation S-K (17 CFR 229.407(a)), if the bank holding company has an outstanding class of securities traded on an exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) (national securities exchange); or

(2) Would qualify as an independent director under the listing standards of a national securities exchange, as demonstrated to the satisfaction of the Board, if the bank holding company does not have an outstanding class of securities traded on a national securities exchange.

(b) *Chief risk officer*—(1) *General.* A bank holding company subject to this subpart must appoint a chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

(2) *Responsibilities.* (i) The chief risk officer is responsible for overseeing:

(A) The establishment of risk limits on an enterprise-wide basis and the monitoring of compliance with such limits;

(B) The implementation of and ongoing compliance with the policies and procedures set forth in paragraph (a)(2)(i) of this section and the development and implementation of the processes and systems set forth in paragraph (a)(2)(ii) of this section; and

(C) The management of risks and risk controls within the parameters of the company's risk-control framework, and monitoring and testing of the company's risk controls.

(ii) The chief risk officer is responsible for reporting risk-management deficiencies and emerging risks to the risk committee and resolving risk-management deficiencies in a timely manner.

(3) *Corporate governance requirements.* (i) The bank holding company must ensure that the compensation and other incentives provided to the chief risk officer are consistent with providing an objective assessment of the risks taken by the bank holding company; and

(ii) The chief risk officer must report directly to both the risk committee and chief executive officer of the company.

■ 32. Revise the heading of subpart D to read as follows:

**Subpart D—Enhanced Prudential Standards for Bank Holding Companies With Total Consolidated Assets of \$100 Billion or More**

■ 33. Section 252.30 is revised to read as follows:

**§ 252.30 Scope.**

This subpart applies to bank holding companies with average total consolidated assets of \$100 billion or more.

■ 34. Section 252.31 is revised to read as follows:

**§ 252.31 Applicability.**

(a) *Applicability*—(1) *Initial applicability.* Subject to paragraph (c) of this section, a bank holding company must comply with the risk-management and risk-committee requirements set forth in § 252.33 and the liquidity risk-management and liquidity stress test requirements set forth in §§ 252.34 and 252.35 no later than the first day of the fifth quarter following the date on which its average total consolidated assets equal or exceed \$100 billion.

(2) *Changes in requirements following a change in category.* A bank holding company with average total consolidated assets of \$100 billion or more that changes from one category of banking organization described in § 252.5(b) through (e) to another of such categories must comply with the requirements applicable to the new category no later than on the first day of the second quarter following the change in the bank holding company's category.

(b) *Cessation of requirements.* Except as provided in paragraph (c) of this section, a bank holding company is subject to the risk-management and risk committee requirements set forth in § 252.33 and the liquidity risk-management and liquidity stress test requirements set forth in §§ 252.34 and 252.35 until its total consolidated assets are below \$100 billion for each of four consecutive calendar quarters.

(c) *Applicability for bank holding companies that are subsidiaries of*

*foreign banking organizations.* If a bank holding company that has average total consolidated assets of \$100 billion or more is controlled by a foreign banking organization, the U.S. intermediate holding company established or designated by the foreign banking organization must comply with the risk-management and risk committee requirements set forth in § 252.153(e)(3) and the liquidity risk-management and liquidity stress test requirements set forth in § 252.153(e)(4).

■ 35. Section 252.32 is revised to read as follows:

**§ 252.32 Risk-based and leverage capital and stress test requirements.**

A bank holding company subject to this subpart must comply with, and hold capital commensurate with the requirements of, any regulations adopted by the Board relating to capital planning and stress tests, in accordance with the applicability provisions set forth therein.

■ 36. In § 252.33, paragraphs (a)(1) and (b)(1) are revised to read as follows:

**§ 252.33 Risk-management and risk committee requirements.**

(a) *Risk committee*—(1) *General.* A bank holding company subject to this subpart must maintain a risk committee that approves and periodically reviews the risk-management policies of the bank holding company's global operations and oversees the operation of the bank holding company's global risk-management framework. The risk committee's responsibilities include liquidity risk-management as set forth in § 252.34(b).

\* \* \* \* \*

(b) *Chief risk officer*—(1) *General.* A bank holding company subject to this subpart must appoint a chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

\* \* \* \* \*

■ 37. In § 252.34, paragraphs (a)(1) introductory text, (c)(1)(i), (d), (e)(1), (f)(1), (f)(2)(i), (g), and (h) are revised to read as follows:

**§ 252.34 Liquidity risk-management requirements.**

(a) \* \* \*

(1) *Liquidity risk tolerance.* The board of directors of a bank holding company that is subject to this subpart must:

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) Senior management of a bank holding company subject to this subpart must establish and implement



strategies, policies, and procedures designed to effectively manage the risk that the bank holding company's financial condition or safety and soundness would be adversely affected by its inability or the market's perception of its inability to meet its cash and collateral obligations (liquidity risk). The board of directors must approve the strategies, policies, and procedures pursuant to paragraph (a)(2) of this section.

\* \* \* \* \*

(d) *Independent review function.* (1) A bank holding company subject to this subpart must establish and maintain a review function that is independent of management functions that execute funding to evaluate its liquidity risk management.

(2) The independent review function must:

(i) Regularly, but no less frequently than annually, review and evaluate the adequacy and effectiveness of the company's liquidity risk-management processes, including its liquidity stress test processes and assumptions;

(ii) Assess whether the company's liquidity risk-management function complies with applicable laws and regulations, and sound business practices; and

(iii) Report material liquidity risk-management issues to the board of directors or the risk committee in writing for corrective action, to the extent permitted by applicable law.

(e) \* \* \*

(1) A bank holding company subject to this subpart must produce comprehensive cash-flow projections that project cash flows arising from assets, liabilities, and off-balance sheet exposures over, at a minimum, short- and long-term time horizons. The bank holding company must update short-term cash-flow projections daily and must update longer-term cash-flow projections at least monthly.

\* \* \* \* \*

(f) \* \* \*

(1) *General.* A bank holding company subject to this subpart must establish and maintain a contingency funding plan that sets out the company's strategies for addressing liquidity needs during liquidity stress events. The contingency funding plan must be commensurate with the company's capital structure, risk profile, complexity, activities, size, and established liquidity risk tolerance. The company must update the contingency funding plan at least annually, and when changes to market and idiosyncratic conditions warrant.

(2) \* \* \*

(i) *Quantitative assessment.* The contingency funding plan must:

(A) Identify liquidity stress events that could have a significant impact on the bank holding company's liquidity;

(B) Assess the level and nature of the impact on the bank holding company's liquidity that may occur during identified liquidity stress events;

(C) Identify the circumstances in which the bank holding company would implement its action plan described in paragraph (f)(2)(ii)(A) of this section, which circumstances must include failure to meet any minimum liquidity requirement imposed by the Board;

(D) Assess available funding sources and needs during the identified liquidity stress events;

(E) Identify alternative funding sources that may be used during the identified liquidity stress events; and

(F) Incorporate information generated by the liquidity stress testing required under § 252.35(a).

\* \* \* \* \*

(g) *Liquidity risk limits—(1) General.* A bank holding company must monitor sources of liquidity risk and establish limits on liquidity risk that are consistent with the company's established liquidity risk tolerance and that reflect the company's capital structure, risk profile, complexity, activities, and size.

(2) *Liquidity risk limits established by a global systemically important BHC, Category II bank holding company, or Category III bank holding company.* If the bank holding company is a global systemically important BHC, Category II bank holding company, or Category III bank holding company, liquidity risk limits established under paragraph (g)(1) of this section must include limits on:

(i) Concentrations in sources of funding by instrument type, single counterparty, counterparty type, secured and unsecured funding, and as applicable, other forms of liquidity risk;

(ii) The amount of liabilities that mature within various time horizons; and

(iii) Off-balance sheet exposures and other exposures that could create funding needs during liquidity stress events.

(h) *Collateral, legal entity, and intraday liquidity risk monitoring.* A bank holding company subject to this subpart must establish and maintain procedures for monitoring liquidity risk as set forth in this paragraph.

(1) *Collateral.* The bank holding company must establish and maintain policies and procedures to monitor assets that have been, or are available to be, pledged as collateral in connection

with transactions to which it or its affiliates are counterparties. These policies and procedures must provide that the bank holding company:

(i) Calculates all of its collateral positions according to the frequency specified in paragraph (h)(1)(i)(A) or (B) of this section, or as directed by the Board, specifying the value of pledged assets relative to the amount of security required under the relevant contracts and the value of unencumbered assets available to be pledged;

(A) If the bank holding company is not a Category IV bank holding company, on at least a weekly basis; or

(B) If the bank holding company is a Category IV bank holding company, on at least a monthly basis;

(ii) Monitors the levels of unencumbered assets available to be pledged by legal entity, jurisdiction, and currency exposure;

(iii) Monitors shifts in the bank holding company's funding patterns, such as shifts between intraday, overnight, and term pledging of collateral; and

(iv) Tracks operational and timing requirements associated with accessing collateral at its physical location (for example, the custodian or securities settlement system that holds the collateral).

(2) *Legal entities, currencies, and business lines.* The bank holding company must establish and maintain procedures for monitoring and controlling liquidity risk exposures and funding needs within and across significant legal entities, currencies, and business lines, taking into account legal and regulatory restrictions on the transfer of liquidity between legal entities.

(3) *Intraday exposures.* The bank holding company must establish and maintain procedures for monitoring intraday liquidity risk exposures that are consistent with the bank holding company's capital structure, risk profile, complexity, activities, and size. If the bank holding company is a global systemically important BHC, Category II bank holding company, or a Category III bank holding company, these procedures must address how the management of the bank holding company will:

(i) Monitor and measure expected daily gross liquidity inflows and outflows;

(ii) Manage and transfer collateral to obtain intraday credit;

(iii) Identify and prioritize time-specific obligations so that the bank holding company can meet these obligations as expected and settle less critical obligations as soon as possible;

(iv) Manage the issuance of credit to customers where necessary; and  
 (v) Consider the amounts of collateral and liquidity needed to meet payment systems obligations when assessing the bank holding company's overall liquidity needs.

■ 38. In § 252.35:

- a. Paragraphs (a)(1) introductory text, (a)(2), and (a)(7)(i) and (ii) are revised;
- b. Paragraph (a)(8) is added; and
- c. Paragraphs (b)(1) and (3) are revised.

The revisions and addition read as follows:

**§ 252.35 Liquidity stress testing and buffer requirements.**

(a) \* \* \*

(1) *General.* A bank holding company subject to this subpart must conduct stress tests to assess the potential impact of the liquidity stress scenarios set forth in paragraph (a)(3) of this section on its cash flows, liquidity position, profitability, and solvency, taking into account its current liquidity condition, risks, exposures, strategies, and activities.

\* \* \* \* \*

(2) *Frequency.* The bank holding company must perform the liquidity stress tests required under paragraph (a)(1) of this section according to the frequency specified in paragraph (a)(2)(i) or (ii), or as directed by the Board:

(i) If the bank holding company is not a Category IV bank holding company, at least monthly; or

(ii) If the bank holding company is a Category IV bank holding company, at least quarterly.

\* \* \* \* \*

(7) \* \* \*

(i) *Policies and procedures.* A bank holding company subject to this subpart must establish and maintain policies and procedures governing its liquidity stress testing practices, methodologies, and assumptions that provide for the incorporation of the results of liquidity stress tests in future stress testing and for the enhancement of stress testing practices over time.

(ii) *Controls and oversight.* A bank holding company subject to this subpart must establish and maintain a system of controls and oversight that is designed to ensure that its liquidity stress testing processes are effective in meeting the requirements of this section. The controls and oversight must ensure that each liquidity stress test appropriately incorporates conservative assumptions with respect to the stress scenario in paragraph (a)(3) of this section and other elements of the stress test process,

taking into consideration the bank holding company's capital structure, risk profile, complexity, activities, size, business lines, legal entity or jurisdiction, and other relevant factors. The assumptions must be approved by the chief risk officer and be subject to the independent review under § 252.34(d) of this subpart.

\* \* \* \* \*

(8) *Notice and response.* If the Board determines that a bank holding company must conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section, the Board will notify the bank holding company before the change in frequency takes effect, and describe the basis for its determination. Within 14 calendar days of receipt of a notification under this paragraph, the bank holding company may request in writing that the Board reconsider the requirement. The Board will respond in writing to the company's request for reconsideration prior to requiring the company conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section.

(b) *Liquidity buffer requirement.* (1) A bank holding company subject to this subpart must maintain a liquidity buffer that is sufficient to meet the projected net stressed cash-flow need over the 30-day planning horizon of a liquidity stress test conducted in accordance with paragraph (a) of this section under each scenario set forth in paragraph (a)(3)(i) through (iii) of this section.

\* \* \* \* \*

(3) *Asset requirements.* The liquidity buffer must consist of highly liquid assets that are unencumbered, as defined in paragraph (b)(3)(ii) of this section:

(i) *Highly liquid asset.* A highly liquid asset includes:

(A) Cash;

(B) Assets that meet the criteria for high quality liquid assets as defined in 12 CFR 249.20; or

(C) Any other asset that the bank holding company demonstrates to the satisfaction of the Board:

(1) Has low credit risk and low market risk;

(2) Is traded in an active secondary two-way market that has committed market makers and independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a reasonable time period conforming with trade custom; and

(3) Is a type of asset that investors historically have purchased in periods of financial market distress during which market liquidity has been impaired.

(ii) *Unencumbered.* An asset is unencumbered if it:

(A) Is free of legal, regulatory, contractual, or other restrictions on the ability of such company promptly to liquidate, sell or transfer the asset; and

(B) Is either:

(1) Not pledged or used to secure or provide credit enhancement to any transaction; or

(2) Pledged to a central bank or a U.S. government-sponsored enterprise, to the extent potential credit secured by the asset is not currently extended by such central bank or U.S. government-sponsored enterprise or any of its consolidated subsidiaries.

(iii) *Calculating the amount of a highly liquid asset.* In calculating the amount of a highly liquid asset included in the liquidity buffer, the bank holding company must discount the fair market value of the asset to reflect any credit risk and market price volatility of the asset.

(iv) *Operational requirements.* With respect to the liquidity buffer, the bank holding company must:

(A) Establish and implement policies and procedures that require highly liquid assets comprising the liquidity buffer to be under the control of the management function in the bank holding company that is charged with managing liquidity risk; and

(B) Demonstrate the capability to monetize a highly liquid asset under each scenario required under § 252.35(a)(3).

(v) *Diversification.* The liquidity buffer must not contain significant concentrations of highly liquid assets by issuer, business sector, region, or other factor related to the bank holding company's risk, except with respect to cash and securities issued or guaranteed by the United States, a U.S. government agency, or a U.S. government-sponsored enterprise.

■ 39. The heading of subpart E is revised to read as follows:

**Subpart E—Supervisory Stress Test Requirements for Certain U.S. Banking Organizations With \$100 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board**

■ 40. Section 252.41 is revised to read as follows

**§ 252.41 Authority and purpose.**

(a) *Authority.* 12 U.S.C. 321–338a, 1818, 1831p–1, 1844(b), 1844(c), 5361,

5365, 5366, sec. 401(e), Pub. L. 115–174, 132 Stat. 1296.

(b) *Purpose.* This subpart implements section 165 of the Dodd-Frank Act (12 U.S.C. 5365) and section 401(e) of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which requires the Board to conduct annual analyses of nonbank financial companies supervised by the Board and bank holding companies with \$100 billion or more in total consolidated assets to evaluate whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.

■ 41. Section 252.42 is revised to read as follows:

**§ 252.42 Definitions**

For purposes of this subpart E, the following definitions apply:

*Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

*Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

*Covered company* means:

(1) A U.S. bank holding company with average total consolidated assets of \$100 billion or more;

(2) A U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(3) A nonbank financial company supervised by the Board.

*Foreign banking organization* has the same meaning as in 12 CFR 211.21(o).

*Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

*Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

*Provision for credit losses* means:

(1) With respect to a covered company that has adopted the current expected credit losses methodology under GAAP,

the provision for credit losses, as would be reported by the covered company on the FR Y–9C in the current stress test cycle; and,

(2) With respect to a covered company that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as would be reported by the covered company on the FR Y–9C in the current stress test cycle.

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

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

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

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

*Subsidiary* has the same meaning as in 12 CFR 225.2.

■ 42. In § 252.43, paragraph (a) is revised to read as follows:

**§ 252.43 Applicability.**

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) Any U.S. bank holding company with average total consolidated assets of \$100 billion or more;

(ii) Any U.S. intermediate holding company subject to this section pursuant to § 252.153; and

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

(2) *Ongoing applicability.* A bank holding company or U.S. intermediate holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below \$100 billion for each of four consecutive quarters.

\* \* \* \* \*

■ 43. In § 252.44, the section heading and paragraphs (a)(1) and (b) are revised and paragraph (c) is added to read as follows:

**§ 252.44 Analysis conducted by the Board.**

(a) *In general.* (1) The Board will conduct an analysis of each covered company’s capital, on a total consolidated basis, taking into account all relevant exposures and activities of that covered company, to evaluate the ability of the covered company to absorb losses in specified economic and financial conditions.

\* \* \* \* \*

(b) *Economic and financial scenarios related to the Board’s analysis.* The Board will conduct its analysis using a minimum of two different scenarios, including a baseline scenario and a severely adverse scenario. The Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle to which the covered company is subject by no later than February 15 of that year, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than March 1 of that year.

(c) *Frequency of analysis conducted by the Board*—(1) *General.* Except as provided in paragraph (c)(2) of this section, the Board will conduct its analysis of a covered company according to the frequency in Table 1 to § 252.44(c)(1).

TABLE 1 TO § 252.44(c)(1)

If the covered company is a	Then the Board will conduct its analysis
Global systemically important BHC .....	Annually.
Category II bank holding company .....	Annually.
Category II U.S. intermediate holding company .....	Annually.
Category III bank holding company .....	Annually.
Category III U.S. intermediate holding company .....	Annually.
Category IV bank holding company .....	Biennially, occurring in each year ending in an even number.
Category IV U.S. intermediate holding company .....	Biennially, occurring in each year ending in an even number.

TABLE 1 TO § 252.44(c)(1)—Continued

If the covered company is a	Then the Board will conduct its analysis
Nonbank financial company supervised by the Board .....	Annually.

(2) *Change in frequency.* The Board may conduct a stress test of a covered company on a more or less frequent basis than would be required under paragraph (c)(1) of this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Notice and response*—(i) *Notification of change in frequency.* If the Board determines to change the frequency of the stress test under paragraph (c)(2) of this section, the Board will notify the company in writing and provide a discussion of the basis for its determination.

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under paragraph (c)(3)(i) of this section, a covered company may request in writing that the Board reconsider the requirement to conduct a stress test on a more or less frequent basis than would be required under paragraph (c)(1) of this section. A covered company's request for reconsideration must include an explanation as to why the request for reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

■ 44. The heading of subpart F is revised to read as follows:

**Subpart F—Company-Run Stress Test Requirements for Certain U.S. Bank Holding Companies and Nonbank Financial Companies Supervised by the Board**

■ 45. Section 252.51 is revised to read as follows:

**§ 252.51 Authority and purpose.**

(a) *Authority.* 12 U.S.C. 321–338a, 1818, 1831p–1, 1844(b), 1844(c), 5361, 5365, 5366.

(b) *Purpose.* This subpart establishes the requirement for a covered company to conduct stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

■ 46. Section 252.52 is revised as follows:

**§ 252.52 Definitions.**

For purposes of this subpart, the following definitions apply:

*Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

*Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

*Capital action* has the same meaning as in 12 CFR 225.8(d).

*Covered company* means:

- (1) A global systemically important BHC;
- (2) A Category II bank holding company;
- (3) A Category III bank holding company;
- (4) A Category II U.S. intermediate holding company subject to this section pursuant to § 252.153;
- (5) A Category III U.S. intermediate holding company subject to this section pursuant to § 252.153; and
- (6) A nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

*Foreign banking organization* has the same meaning as in 12 CFR 211.21(o).

*Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

*Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

*Provision for credit losses* means:

- (1) With respect to a covered company that has adopted the current expected credit losses methodology under GAAP, the provision for credit losses, as would be reported by the covered company on the FR Y–9C in the current stress test cycle; and
- (2) With respect to a covered company that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as would be reported by the covered company on the FR Y–9C in the current stress test cycle.

*Regulatory capital ratio* means a capital ratio for which the Board has established minimum requirements for the company by regulation or order, including, as applicable, the company's regulatory capital ratios calculated

under 12 CFR part 217 and the deductions required under 12 CFR 248.12; except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

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

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

*Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered company over the planning horizon, taking into account its current condition, risks, exposures, strategies, and activities.

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

*Subsidiary* has the same meaning as in 12 CFR 225.2.

■ 47. Section 252.53 is revised to read as follows:

**§ 252.53 Applicability.**

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

- (i) Any global systemically important BHC;
- (ii) Any Category II bank holding company;
- (iii) Any Category III bank holding company;
- (iv) Any Category II U.S. intermediate holding company subject to this section pursuant to § 252.153;
- (v) Any Category III U.S. intermediate holding company subject to this section pursuant to § 252.153; and
- (vi) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Ongoing applicability.* (i) A bank holding company (including any successor company) that is subject to any requirement in this subpart shall

remain subject to any such requirement unless and until the bank holding company:

- (A) Is not a global systemically important BHC;
  - (B) Is not a Category II bank holding company; and
  - (C) Is not a Category III bank holding company.
- (ii) A U.S. intermediate holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until the U.S. intermediate holding company:

- (A) Is not a Category II U.S. intermediate holding company; and
  - (B) Is not a Category III U.S. intermediate holding company.
- (b) *Transitional arrangements.* (1) A company that becomes a covered company on or before September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the second calendar year after the company becomes a covered company, unless that time is extended by the Board in writing.
- (2) A company that becomes a covered company after September 30 of a calendar year must comply with the requirements of this subpart beginning

on January 1 of the third calendar year after the company becomes a covered company, unless that time is extended by the Board in writing.

■ 48. In § 252.54 the section heading, paragraphs (a), (b)(2)(i), and (b)(4)(ii) and (iii) are revised to read as follows:

**§ 252.54 Stress test.**

- (a) *Stress test*—(1) *In general.* A covered company must conduct a stress test as required under this subpart.
- (2) *Frequency*—(i) *General.* Except as provided in paragraph (a)(2)(ii) of this section, a covered company must conduct a stress test according to the frequency in Table 1 to § 252.54(a)(2)(i).

TABLE 1 TO § 252.54(a)(2)(i)

If the covered company is a	Then the stress test must be conducted
Global systemically important BHC .....	Annually, by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Category II bank holding company .....	Annually, by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Category II U.S. intermediate holding company .....	Annually, by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Category III bank holding company .....	Biennially, by April 5 of each calendar year ending in an even number, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Category III U.S. intermediate holding company .....	Biennially, by April 5 of each calendar year ending in an even number, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.
Nonbank financial company supervised by the Board .....	Periodically, as determined by rule or order.

(ii) *Change in frequency.* The Board may require a covered company to conduct a stress test on a more or less frequent basis than would be required under paragraph (a)(2)(i) of this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Notice and response*—(i) *Notification of change in frequency.* If the Board requires a covered company to change the frequency of the stress test under paragraph (a)(2)(ii) of this section, the Board will notify the company in writing and provide a discussion of the basis for its determination.

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under paragraph (a)(3)(i) of this section, a covered company may request in writing that the Board reconsider the requirement to conduct a stress test on a more or less frequent basis than would be required under paragraph (a)(2)(i) of this section. A covered company's request for reconsideration must include an explanation as to why the request for reconsideration should be granted. The

Board will respond in writing within 14 calendar days of receipt of the company's request.

- (b) \* \* \*
- (2) \* \* \*

(i) The Board may require a covered company with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y-14), to include a trading and counterparty component in its severely adverse scenario in the stress test required by this section. The data used in this component must be as of a date selected by the Board between October 1 of the previous calendar year and March 1 of the calendar year in which the stress test is performed pursuant to this section, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of the calendar year in which the stress test is performed pursuant to this section.

(ii) The Board may require a covered company to include one or more additional components in its severely adverse scenario in the stress test required by this section based on the

company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

- \* \* \* \* \*
- (4) \* \* \*

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the request for reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by March 1 of the calendar year in which the stress test is performed pursuant to this section.

**§ 252.55 [Removed and Reserved]**

■ 49. Section 252.55 is removed and reserved.

■ 50. Section 252.56, paragraphs (a) introductory text, (b) introductory text, and (c)(1) and (2) are revised to read as follows:

**§ 252.56 Methodologies and practices.**

(a) *Potential impact on capital.* In conducting a stress test under § 252.54, for each quarter of the planning horizon, a covered company must estimate the following for each scenario required to be used:

\* \* \* \* \*

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

\* \* \* \* \*

(c) \* \* \*

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

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a covered company must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the covered company may warrant, but no less than each year a stress test is conducted. The board of directors and senior management of the covered company must receive a summary of the results of any stress test conducted under this subpart.

\* \* \* \* \*

■ 51. In § 252.57, paragraph (a) is revised to read as follows:

**§ 252.57 Reports of stress test results.**

(a) *Reports to the Board of stress test results.* A covered company must report the results of the stress test required under § 252.54 to the Board in the manner and form prescribed by the Board. Such results must be submitted by April 5 of the calendar year in which the stress test is conducted pursuant to § 252.54, unless that time is extended by the Board in writing.

\* \* \* \* \*

■ 52. In § 252.58, paragraph (a)(1) is revised to read as follows:

**§ 252.58 Disclosure of stress test results.**

(a) \* \* \*

(1) *In general.* A covered company must publicly disclose a summary of the results of the stress test required under § 252.54 within the period that is 15 calendar days after the Board publicly discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c), unless that time is extended by the Board in writing.

\* \* \* \* \*

**Subpart H—Single-Counterparty Credit Limits**

■ 53. In § 252.70, paragraphs (a) and (d)(1) are revised to read as follows:

**§ 252.70 Applicability and general provisions.**

(a) *In general.* (1) This subpart establishes single counterparty credit limits for a covered company.

(2) For purposes of this subpart:

(i) *Covered company* means:

(A) A global systemically important BHC;

(B) A Category II bank holding company; and

(C) A Category III bank holding company;

(ii) *Major covered company* means any covered company that is a global systemically important BHC.

\* \* \* \* \*

(d) \* \* \*

(1) Any company that becomes a covered company will remain subject to the requirements of this subpart unless and until:

(i) The covered company is not a global systemically important BHC;

(ii) The covered company is not a Category II bank holding company; and

(iii) The covered company is not a Category III bank holding company.

\* \* \* \* \*

**Subpart L—[Removed and Reserved]**

■ 54. Subpart L, consisting of §§ 252.120 through 252.122, is removed.

■ 55. Revise the heading for subpart M to read as follows.

**Subpart M—Risk Committee Requirement for Foreign Banking Organizations With Total Consolidated Assets of at Least \$50 Billion but Less Than \$100 Billion**

■ 56. Section 252.131 is revised to read as follows:

**§ 252.131 Applicability.**

(a) *General applicability.* A foreign banking organization with average total

consolidated assets of at least \$50 billion but less than \$100 billion must comply with the risk-committee requirements set forth in this subpart beginning on the first day of the ninth quarter following the date on which its average total consolidated assets equal or exceed \$50 billion.

(b) *Cessation of requirements.* A foreign banking organization will remain subject to the risk-committee requirements of this section until the earlier of the date on which:

(1) Its total consolidated assets are below \$50 billion for each of four consecutive calendar quarters; and

(2) It becomes subject to the requirements of subpart N or subpart O of this part.

■ 57. In § 252.132, the section heading and paragraphs (a) introductory text and (d) are revised to read as follows:

**§ 252.132 Risk-committee requirements for foreign banking organizations with total consolidated assets of \$50 billion or more but less than \$100 billion.**

(a) *U.S. risk committee certification.* A foreign banking organization subject to this subpart, must, on an annual basis, certify to the Board that it maintains a committee of its global board of directors (or equivalent thereof), on a standalone basis or as part of its enterprise-wide risk committee (or equivalent thereof) that:

\* \* \* \* \*

(d) *Noncompliance with this section.* If a foreign banking organization does not satisfy the requirements of this section, the Board may impose requirements, conditions, or restrictions relating to the activities or business operations of the combined U.S. operations of the foreign banking organization. The Board will coordinate with any relevant State or Federal regulator in the implementation of such requirements, conditions, or restrictions. If the Board determines to impose one or more requirements, conditions, or restrictions under this paragraph, the Board will notify the organization before it applies any requirement, condition or restriction, and describe the basis for imposing such requirement, condition, or restriction. Within 14 calendar days of receipt of a notification under this paragraph, the company may request in writing that the Board reconsider the requirement, condition, or restriction. The Board will respond in writing to the organization's request for reconsideration prior to applying the requirement, condition, or restriction.

■ 58. The heading of subpart N is revised as follows:

**Subpart N—Enhanced Prudential Standards for Foreign Banking Organizations With Total Consolidated Assets of \$100 Billion or More and Combined U.S. Assets of Less Than \$100 Billion**

■ 59. Section 252.140 is revised to read as follows:

**§ 252.140 Scope.**

This subpart applies to foreign banking organizations with average total consolidated assets of \$100 billion or more, but average combined U.S. assets of less than \$100 billion.

■ 60. Section 252.142 is revised to read as follows:

**§ 252.142 Applicability.**

(a) *General applicability.* A foreign banking organization with average total consolidated assets of \$100 billion or more and average combined U.S. assets of less than \$100 billion must:

(1) Comply with the capital stress testing, risk-management and risk-committee requirements set forth in this subpart beginning no later than on the first day of the ninth quarter the date on which its average total consolidated assets equal or exceed \$100 billion; and

(2) Comply with the risk-based and leverage capital requirements and liquidity risk-management requirements set forth in this subpart beginning no later than on the first day of the ninth quarter following the date on which its total consolidated assets equal or exceed \$250 billion; and

(3) Comply with the U.S. intermediate holding company requirement set forth in § 252.147 beginning no later than on the first day of the ninth quarter following the date on which its average U.S. non-branch assets equal or exceed \$50 billion.

(b) *Cessation of requirements—(1) Enhanced prudential standards applicable to the foreign banking organization.* (i) A foreign banking organization will remain subject to the requirements set forth in §§ 252.144 and 252.146 until its total consolidated assets are below \$100 billion for each of four consecutive calendar quarters, or it becomes subject to the requirements of subpart O of this part.

(ii) A foreign banking organization will remain subject to the requirements set forth in §§ 252.143 and 252.145 until its total consolidated assets are below \$250 billion for each of four consecutive calendar quarters, or it becomes subject to the requirements of subpart O of this part.

(2) *Intermediate holding company requirement.* A foreign banking organization will remain subject to the

U.S. intermediate holding company requirement set forth in § 252.147 until the sum of the total consolidated assets of the top-tier U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary) is below \$50 billion for each of four consecutive calendar quarters, or it becomes subject to the U.S. intermediate holding company requirements of subpart O of this part.

■ 61. In § 252.143, the section heading and paragraphs (a)(1) introductory text, (b), and (c) are revised to read as follows:

**§ 252.143 Risk-based and leverage capital requirements for foreign banking organizations with total consolidated assets of \$250 billion or more and combined U.S. assets of less than \$100 billion.**

(a) \* \* \*

(1) A foreign banking organization subject to this subpart and with average total consolidated assets of \$250 billion or more must certify to the Board that it meets capital adequacy standards on a consolidated basis established by its home-country supervisor that are consistent with the regulatory capital framework published by the Basel Committee on Banking Supervision, as amended from time to time (Basel Capital Framework).

\* \* \* \* \*

(b) *Reporting.* A foreign banking organization subject to this subpart and with average total consolidated assets of \$250 billion or more must provide to the Board reports relating to its compliance with the capital adequacy measures described in paragraph (a) of this section concurrently with filing the FR Y-7Q.

(c) *Noncompliance with the Basel Capital Framework.* If a foreign banking organization does not satisfy the requirements of this section, the Board may impose requirements, conditions, or restrictions, including risk-based or leverage capital requirements, relating to the activities or business operations of the U.S. operations of the organization. The Board will coordinate with any relevant State or Federal regulator in the implementation of such requirements, conditions, or restrictions. If the Board determines to impose one or more requirements, conditions, or restrictions under this paragraph, the Board will notify the organization before it applies any requirement, condition or restriction, and describe the basis for imposing such requirement, condition, or restriction. Within 14 calendar days of receipt of a notification under this paragraph, the organization may request in writing that the Board reconsider the requirement,

condition, or restriction. The Board will respond in writing to the organization's request for reconsideration prior to applying the requirement, condition, or restriction.

■ 62. Section 252.144 is revised to read as follows:

**§ 252.144 Risk-management and risk-committee requirements for foreign banking organizations with total consolidated assets of \$100 billion or more but combined U.S. assets of less than \$100 billion.**

(a) *Risk-management and risk-committee requirements for foreign banking organizations with combined U.S. assets of less than \$50 billion—(1) U.S. risk committee certification.* A foreign banking organization with average combined U.S. assets of less than \$50 billion must, on an annual basis, certify to the Board that it maintains a committee of its global board of directors (or equivalent thereof), on a standalone basis or as part of its enterprise-wide risk committee (or equivalent thereof) that:

(i) Oversees the risk-management policies of the combined U.S. operations of the foreign banking organization; and

(ii) Includes at least one member having experience in identifying, assessing, and managing risk exposures of large, complex firms.

(2) *Timing of certification.* The certification required under paragraph (a) of this section must be filed on an annual basis with the Board concurrently with the FR Y-7.

(b) *Risk-management and risk-committee requirements for foreign banking organizations with combined U.S. assets of \$50 billion or more but less than \$100 billion—(1) U.S. risk committee—(i) General.* A foreign banking organization subject to this subpart and with average combined U.S. assets of \$50 billion or more must maintain a U.S. risk committee that approves and periodically reviews the risk-management policies of the combined U.S. operations of the foreign banking organization and oversees the risk-management framework of such combined U.S. operations.

(ii) *Risk-management framework.* The foreign banking organization's risk-management framework for its combined U.S. operations must be commensurate with the structure, risk profile, complexity, activities, and size of its combined U.S. operations and consistent with its enterprise-wide risk management policies. The framework must include:

(A) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control

infrastructure for the combined U.S. operations of the foreign banking organization; and

(B) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(1) Processes and systems for identifying and reporting risks and risk-management deficiencies, including regarding emerging risks, on a combined U.S. operations basis and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies;

(2) Processes and systems for establishing managerial and employee responsibility for risk management of the combined U.S. operations;

(3) Processes and systems for ensuring the independence of the risk-management function of the combined U.S. operations; and

(4) Processes and systems to integrate risk management and associated controls with management goals and the compensation structure of the combined U.S. operations.

(iii) *Placement of the U.S. risk committee.* (A) A foreign banking organization that conducts its operations in the United States solely through a U.S. intermediate holding company must maintain its U.S. risk committee as a committee of the board of directors of its U.S. intermediate holding company (or equivalent thereof).

(B) A foreign banking organization that conducts its operations through U.S. branches or U.S. agencies (in addition to through its U.S. intermediate holding company, if any) may maintain its U.S. risk committee either:

(1) As a committee of the global board of directors (or equivalent thereof), on a standalone basis or as a joint committee with its enterprise-wide risk committee (or equivalent thereof); or

(2) As a committee of the board of directors of its U.S. intermediate holding company (or equivalent thereof), on a standalone basis or as a joint committee with the risk committee of its U.S. intermediate holding company required pursuant to § 252.147(e)(3).

(iv) *Corporate governance requirements.* The U.S. risk committee must meet at least quarterly and otherwise as needed, and must fully document and maintain records of its proceedings, including risk-management decisions.

(v) *Minimum member requirements.* The U.S. risk committee must:

(A) Include at least one member having experience in identifying,

assessing, and managing risk exposures of large, complex financial firms; and

(B) Have at least one member who:

(1) Is not an officer or employee of the foreign banking organization or its affiliates and has not been an officer or employee of the foreign banking organization or its affiliates during the previous three years; and

(2) Is not a member of the immediate family, as defined in 12 CFR 225.41(b)(3), of a person who is, or has been within the last three years, an executive officer, as defined in 12 CFR 215.2(e)(1) of the foreign banking organization or its affiliates.

(2) [Reserved]

(c) *U.S. chief risk officer*—(1) *General.* A foreign banking organization with average combined U.S. assets of \$50 billion or more but less than \$100 billion or its U.S. intermediate holding company, if any, must appoint a U.S. chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

(2) *Responsibilities.* (i) The U.S. chief risk officer is responsible for overseeing:

(A) The measurement, aggregation, and monitoring of risks undertaken by the combined U.S. operations;

(B) The implementation of and ongoing compliance with the policies and procedures for the foreign banking organization's combined U.S. operations set forth in paragraph (b)(1)(ii)(A) of this section and the development and implementation of processes and systems set forth in paragraph (b)(1)(ii)(B) of this section; and

(C) The management of risks and risk controls within the parameters of the risk-control framework for the combined U.S. operations, and the monitoring and testing of such risk controls.

(ii) The U.S. chief risk officer is responsible for reporting risks and risk-management deficiencies of the combined U.S. operations, and resolving such risk-management deficiencies in a timely manner.

(3) *Corporate governance and reporting.* The U.S. chief risk officer must:

(i) Receive compensation and other incentives consistent with providing an objective assessment of the risks taken by the combined U.S. operations of the foreign banking organization;

(ii) Be employed by and located in the U.S. branch, U.S. agency, U.S. intermediate holding company, if any, or another U.S. subsidiary;

(iii) Report directly to the U.S. risk committee and the global chief risk officer or equivalent management official (or officials) of the foreign banking organization who is responsible

for overseeing, on an enterprise-wide basis, the implementation of and compliance with policies and procedures relating to risk-management governance, practices, and risk controls of the foreign banking organization unless the Board approves an alternative reporting structure based on circumstances specific to the foreign banking organization;

(iv) Regularly provide information to the U.S. risk committee, global chief risk officer, and the Board regarding the nature of and changes to material risks undertaken by the foreign banking organization's combined U.S. operations, including risk-management deficiencies and emerging risks, and how such risks relate to the global operations of the foreign banking organization; and

(v) Meet regularly and as needed with the Board to assess compliance with the requirements of this section.

(d) *Responsibilities of the foreign banking organization.* The foreign banking organization must take appropriate measures to ensure that its combined U.S. operations implement the risk-management policies overseen by the U.S. risk committee described in paragraph (a) or (b) of this section, and its combined U.S. operations provide sufficient information to the U.S. risk committee to enable the U.S. risk committee to carry out the responsibilities of this subpart.

(e) *Noncompliance with this section.* If a foreign banking organization does not satisfy the requirements of this section, the Board may impose requirements, conditions, or restrictions relating to the activities or business operations of the combined U.S. operations of the foreign banking organization. The Board will coordinate with any relevant State or Federal regulator in the implementation of such requirements, conditions, or restrictions. If the Board determines to impose one or more requirements, conditions, or restrictions under this paragraph, the Board will notify the organization before it applies any requirement, condition, or restriction, and describe the basis for imposing such requirement, condition, or restriction. Within 14 calendar days of receipt of a notification under this paragraph, the organization may request in writing that the Board reconsider the requirement, condition, or restriction. The Board will respond in writing to the organization's request for reconsideration prior to applying the requirement, condition, or restriction.

■ 63. In § 252.145, the section heading and paragraph (a) are revised to read as follows:



**§ 252.145 Liquidity risk-management requirements for foreign banking organizations with total consolidated assets of \$250 billion or more and combined U.S. assets of less than \$100 billion.**

(a) A foreign banking organization subject to this subpart with average total consolidated assets of \$250 billion or more must report to the Board on an annual basis the results of an internal liquidity stress test for either the consolidated operations of the foreign banking organization or the combined U.S. operations of the foreign banking organization. Such liquidity stress test must be conducted consistent with the Basel Committee principles for liquidity risk management and must incorporate 30-day, 90-day, and one-year stress-test horizons. The “Basel Committee principles for liquidity risk management” means the document titled “Principles for Sound Liquidity Risk Management and Supervision” (September 2008) as published by the Basel Committee on Banking Supervision, as supplemented and revised from time to time.

\* \* \* \* \*

■ 64. In § 252.146, the section heading and paragraphs (b)(1) introductory text, (b)(2)(i), and (c)(1)(ii) and (iii) are revised to read as follows:

**§ 252.146 Capital stress testing requirements for foreign banking organizations with total consolidated assets of \$100 billion or more and combined U.S. assets of less than \$100 billion.**

\* \* \* \* \*

(b) \* \* \*

(1) A foreign banking organization subject to this subpart must:

\* \* \* \* \*

(2) \* \* \*

(i) A supervisory capital stress test conducted by the foreign banking organization’s home-country supervisor or an evaluation and review by the foreign banking organization’s home-country supervisor of an internal capital adequacy stress test conducted by the foreign banking organization, according to the frequency specified in the following paragraph (b)(2)(i)(A) or (B) of this section:

(A) If the foreign banking organization has average total consolidated assets of \$250 billion or more, on at least an annual basis; or

(B) If the foreign banking organization has average total consolidated assets of less than \$250 billion, at least biennially; and

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) Conduct a stress test of its U.S. subsidiaries to determine whether those

subsidiaries have the capital necessary to absorb losses as a result of adverse economic conditions, according to the frequency specified in paragraph (c)(1)(ii)(A) or (B) of this section:

(A) If the foreign banking organization has average total consolidated assets of \$250 billion or more, on at least an annual basis; or

(B) If the foreign banking organization has average total consolidated assets of less than \$250 billion, at least biennially; and

(iii) Report a summary of the results of the stress test to the Board that includes a description of the types of risks included in the stress test, a description of the conditions or scenarios used in the stress test, a summary description of the methodologies used in the stress test, estimates of aggregate losses, pre-provision net revenue, total loan loss provisions, net income before taxes and pro forma regulatory capital ratios required to be computed by the home-country supervisor of the foreign banking organization and any other relevant capital ratios, and an explanation of the most significant causes for any changes in regulatory capital ratios.

\* \* \* \* \*

■ 65. Section 252.147 is added to read as follows:

**§ 252.147 U.S. intermediate holding company requirement for foreign banking organizations with combined U.S. assets of less than \$100 billion and U.S. non-branch assets of \$50 billion or more.**

(a) *Requirement to form a U.S. intermediate holding company*—(1)

*Formation.* A foreign banking organization with average U.S. non-branch assets of \$50 billion or more must establish a U.S. intermediate holding company, or designate an existing subsidiary that meets the requirements of paragraph (a)(2) of this section, as its U.S. intermediate holding company.

(2) *Structure.* The U.S. intermediate holding company must be:

(i) Organized under the laws of the United States, any one of the fifty states of the United States, or the District of Columbia; and

(ii) Be governed by a board of directors or managers that is elected or appointed by the owners and that operates in an equivalent manner, and has equivalent rights, powers, privileges, duties, and responsibilities, to a board of directors of a company chartered as a corporation under the laws of the United States, any one of the fifty states of the United States, or the District of Columbia.

(3) *Notice.* Within 30 days of establishing or designating a U.S. intermediate holding company under this section, a foreign banking organization must provide to the Board:

(i) A description of the U.S. intermediate holding company, including its name, location, corporate form, and organizational structure;

(ii) A certification that the U.S. intermediate holding company meets the requirements of this section; and

(iii) Any other information that the Board determines is appropriate.

(b) *Holdings and regulation of the U.S. intermediate holding company*—(1)

*General.* Subject to paragraph (c) of this section, a foreign banking organization that is required to form a U.S. intermediate holding company under paragraph (a) of this section must hold its entire ownership interest in any U.S. subsidiary (excluding each section 2(h)(2) company or DPC branch subsidiary, if any) through its U.S. intermediate holding company.

(2) *Reporting.* Each U.S. intermediate holding company shall submit information in the manner and form prescribed by the Board.

(3) *Examinations and inspections.*

The Board may examine or inspect any U.S. intermediate holding company and each of its subsidiaries and prepare a report of their operations and activities.

(4) *Global systemically important banking organizations.* For purposes of this part, a top-tier foreign banking organization with average U.S. non-branch assets that equal or exceed \$50 billion is a global systemically important foreign banking organization if any of the following conditions are met:

(i) The top-tier foreign banking organization determines, pursuant to paragraph (b)(6) of this section, that the top-tier foreign banking organization has the characteristics of a global systemically important banking organization under the global methodology; or

(ii) The Board, using information available to the Board, determines:

(A) That the top-tier foreign banking organization would be a global systemically important banking organization under the global methodology;

(B) That the top-tier foreign banking organization, if it were subject to the Board’s Regulation Q, would be identified as a global systemically important BHC under 12 CFR 217.402; or

(C) That the U.S. intermediate holding company, if it were subject to 12 CFR 217.402, would be identified as a global systemically important BHC.

(5) *Notice.* Each top-tier foreign banking organization that controls a U.S. intermediate holding company shall submit to the Board by January 1 of each calendar year through the U.S. intermediate holding company:

(i) Notice of whether the home-country supervisor (or other appropriate home country regulatory authority) of the top-tier foreign banking organization of the U.S. intermediate holding company has adopted standards consistent with the global methodology; and

(ii) Notice of whether the top-tier foreign banking organization prepares or reports the indicators used by the global methodology to identify a banking organization as a global systemically important banking organization and, if it does, whether the top-tier foreign banking organization has determined that it has the characteristics of a global systemically important banking organization under the global methodology pursuant to paragraph (b)(6) of this section.

(6) *Global systemically important banking organization under the global methodology.* A top-tier foreign banking organization that controls a U.S. intermediate holding company and prepares or reports for any purpose the indicator amounts necessary to determine whether the top-tier foreign banking organization is a global systemically important banking organization under the global methodology must use the data to determine whether the top-tier foreign banking organization has the characteristics of a global systemically important banking organization under the global methodology.

(c) *Alternative organizational structure—(1) General.* Upon a written request by a foreign banking organization, the Board may permit the foreign banking organization to: Establish or designate multiple U.S. intermediate holding companies; not transfer its ownership interests in certain subsidiaries to a U.S. intermediate holding company; or use an alternative organizational structure to hold its combined U.S. operations.

(2) *Factors.* In making a determination under paragraph (c)(1) of this section, the Board may consider whether applicable law would prohibit the foreign banking organization from owning or controlling one or more of its U.S. subsidiaries through a single U.S. intermediate holding company, or whether circumstances otherwise warrant an exception based on the foreign banking organization's activities, scope of operations, structure, or similar considerations.

(3) *Request—(i) Contents.* A request submitted under this section must include an explanation of why the request should be granted and any other information required by the Board.

(ii) *Timing.* The Board shall act on a request for an alternative organizational structure within 90 days of receipt of a complete request, unless the Board provides notice to the organization that it is extending the period for action.

(4) *Conditions.* The Board may grant relief under this section upon such conditions as the Board deems appropriate, including, but not limited to, requiring the U.S. operations of the foreign banking organization to comply with additional enhanced prudential standards, or requiring the foreign banking organization to enter into supervisory agreements governing such alternative organizational structure.

(d) *Modifications.* The Board may modify the application of any section of this subpart to a foreign banking organization that is required to form a U.S. intermediate holding company or to such U.S. intermediate holding company if appropriate to accommodate the organizational structure of the foreign banking organization or characteristics specific to such foreign banking organization and such modification is appropriate and consistent with the capital structure, size, complexity, risk profile, scope of operations, or financial condition of each U.S. intermediate holding company, safety and soundness, and the financial stability mandate of section 165 of the Dodd-Frank Act.

(e) *Enhanced prudential standards for U.S. intermediate holding companies—(1) Capital requirements for a U.S. intermediate holding company.* (i)(A) A U.S. intermediate holding company must comply with 12 CFR part 217, other than subpart E of 12 CFR part 217, in the same manner as a bank holding company.

(B) A U.S. intermediate holding company may choose to comply with subpart E of 12 CFR part 217.

(ii) A U.S. intermediate holding company must comply with capital adequacy standards beginning on the date it is required to be established under this subpart, or if the U.S. intermediate holding company is subject to capital adequacy standards on the date that the foreign banking organization becomes subject to § 252.142(a)(3), on the date that the foreign banking organization becomes subject to this subpart.

(2) *Risk-management and risk-committee requirements—(i) General.* A U.S. intermediate holding company must establish and maintain a risk committee that approves and

periodically reviews the risk-management policies and oversees the risk-management framework of the U.S. intermediate holding company. The risk committee must be a committee of the board of directors of the U.S. intermediate holding company (or equivalent thereof). The risk committee may also serve as the U.S. risk committee for the combined U.S. operations required pursuant to § 252.144(b).

(ii) *Risk-management framework.* The U.S. intermediate holding company's risk-management framework must be commensurate with the structure, risk profile, complexity, activities, and size of the U.S. intermediate holding company and consistent with the risk management policies for the combined U.S. operations of the foreign banking organization. The framework must include:

(A) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for the U.S. intermediate holding company; and

(B) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(1) Processes and systems for identifying and reporting risks and risk-management deficiencies at the U.S. intermediate holding company, including regarding emerging risks and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies;

(2) Processes and systems for establishing managerial and employee responsibility for risk management of the U.S. intermediate holding company;

(3) Processes and systems for ensuring the independence of the risk-management function of the U.S. intermediate holding company; and

(4) Processes and systems to integrate risk management and associated controls with management goals and the compensation structure of the U.S. intermediate holding company.

(iii) *Corporate governance requirements.* The risk committee of the U.S. intermediate holding company must meet at least quarterly and otherwise as needed, and must fully document and maintain records of its proceedings, including risk-management decisions.

(iv) *Minimum member requirements.* The risk committee must:

(A) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(B) Have at least one member who:

(1) Is not an officer or employee of the foreign banking organization or its affiliates and has not been an officer or employee of the foreign banking organization or its affiliates during the previous three years; and

(2) Is not a member of the immediate family, as defined in 12 CFR 225.41(b)(3), of a person who is, or has been within the last three years, an executive officer, as defined in 12 CFR 215.2(e)(1), of the foreign banking organization or its affiliates.

(v) The U.S. intermediate holding company must take appropriate measures to ensure that it implements the risk-management policies for the U.S. intermediate holding company and it provides sufficient information to the U.S. risk committee to enable the U.S. risk committee to carry out the responsibilities of this subpart;

(vi) A U.S. intermediate holding company must comply with risk-committee and risk-management requirements beginning on the date that it is required to be established or designated under this subpart or, if the U.S. intermediate holding company is subject to risk-committee and risk-management requirements on the date that the foreign banking organization becomes subject to § 252.147(a)(3), on the date that the foreign banking organization becomes subject to this subpart.

■ 66. The heading of subpart O is revised to read as follows:

**Subpart O—Enhanced Prudential Standards for Foreign Banking Organizations With Total Consolidated Assets of \$100 Billion or More and Combined U.S. Assets of \$100 Billion or More**

■ 67. Section 252.150 is revised to read as follows:

**§ 252.150 Scope.**

This subpart applies to foreign banking organizations with average total consolidated assets of \$100 billion or more and average combined U.S. assets of \$100 billion or more.

■ 68. Section 252.152 is revised to read as follows:

**§ 252.152 Applicability.**

(a) *General applicability.* (1) A foreign banking organization must:

(i) Comply with the requirements of this subpart (other than the U.S. intermediate holding company requirement set forth in § 252.153) beginning on the first day of the ninth quarter following the date on which its

average combined U.S. assets equal or exceed \$100 billion; and

(ii) Comply with the requirement to establish or designate a U.S. intermediate holding company requirement set forth in § 252.153(a) beginning on the first day of the ninth quarter following the date on which its average U.S. non-branch assets equal or exceed \$50 billion or, if the foreign banking organization has established or designated a U.S. intermediate holding company pursuant to § 252.147, beginning on the first day following the date on which the foreign banking organization's average combined U.S. assets equal or exceed \$100 billion.

(2) *Changes in requirements following a change in category.* A foreign banking organization that changes from one category of banking organization described in § 252.5(c) through (e) to another of such categories must comply with the requirements applicable to the new category under this subpart no later than on the first day of the second quarter following the change in the foreign banking organization's category.

(b) *Cessation of requirements—(1) Enhanced prudential standards applicable to the foreign banking organization.* Subject to paragraph (c)(2) of this section, a foreign banking organization will remain subject to the applicable requirements of this subpart until its combined U.S. assets are below \$100 billion for each of four consecutive calendar quarters.

(2) *Intermediate holding company requirement.* A foreign banking organization will remain subject to the U.S. intermediate holding company requirement set forth in § 252.153 until the sum of the total consolidated assets of the top-tier U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary) is below \$50 billion for each of four consecutive calendar quarters, or until the foreign banking organization is subject to subpart N of this part and is in compliance with the U.S. intermediate holding company requirements as set forth in § 252.147.

■ 69. In § 252.153:

- a. Revise the section heading and paragraph (a)(1);
- b. Add a subject heading to paragraph (a)(2); and
- c. Revise paragraphs (a)(3) and (c) through (e).

The revisions and addition read as follows:

**§ 252.153 U.S. intermediate holding company requirement for foreign banking organizations with combined U.S. assets of \$100 billion or more and U.S. non-branch assets of \$50 billion or more.**

(a) \* \* \*

(1) *Formation.* A foreign banking organization with average U.S. non-branch assets of \$50 billion or more must establish a U.S. intermediate holding company, or designate an existing subsidiary that meets the requirements of paragraph (a)(2) of this section, as its U.S. intermediate holding company.

(2) *Structure.* \* \* \*

(3) *Notice.* Within 30 days of establishing or designating a U.S. intermediate holding company under this section, a foreign banking organization must provide to the Board:

- (i) A description of the U.S. intermediate holding company, including its name, location, corporate form, and organizational structure;
- (ii) A certification that the U.S. intermediate holding company meets the requirements of this section; and
- (iii) Any other information that the Board determines is appropriate.

\* \* \* \* \*

(c) *Alternative organizational structure—(1) General.* Upon a written request by a foreign banking organization, the Board may permit the foreign banking organization to: Establish or designate multiple U.S. intermediate holding companies; not transfer its ownership interests in certain subsidiaries to a U.S. intermediate holding company; or use an alternative organizational structure to hold its combined U.S. operations.

(2) *Factors.* In making a determination under paragraph (c)(1) of this section, the Board may consider whether applicable law would prohibit the foreign banking organization from owning or controlling one or more of its U.S. subsidiaries through a single U.S. intermediate holding company, or whether circumstances otherwise warrant an exception based on the foreign banking organization's activities, scope of operations, structure, or other similar considerations.

(3) *Request—(i) Contents.* A request submitted under this section must include an explanation of why the request should be granted and any other information required by the Board.

(ii) *Timing.* The Board will act on a request for an alternative organizational structure within 90 days of receipt of a complete request, unless the Board provides notice to the organization that it is extending the period for action.

(4) *Conditions.* (i) The Board may grant relief under this section upon such

conditions as the Board deems appropriate, including, but not limited to, requiring the U.S. operations of the foreign banking organization to comply with additional enhanced prudential standards, or requiring the foreign banking organization to enter into supervisory agreements governing such alternative organizational structure.

(ii) If the Board permits a foreign banking organization to form two or more U.S. intermediate holding companies under this section, each U.S. intermediate holding company must determine its category pursuant to § 252.5 of this part as though the U.S. intermediate holding companies were a consolidated company.

(d) *Modifications.* The Board may modify the application of any section of this subpart to a foreign banking organization that is required to form a U.S. intermediate holding company or to such U.S. intermediate holding company if appropriate to accommodate the organizational structure of the foreign banking organization or characteristics specific to such foreign banking organization and such modification is appropriate and consistent with the capital structure, size, complexity, risk profile, scope of operations, or financial condition of each U.S. intermediate holding company, safety and soundness, and the mandate of section 165 of the Dodd-Frank Act.

(e) *Enhanced prudential standards for U.S. intermediate holding companies—*

(1) *Capital requirements for a U.S. intermediate holding company.* (i)(A) A U.S. intermediate holding company must comply with 12 CFR part 217, other than subpart E of 12 CFR part 217, in the same manner as a bank holding company.

(B) A U.S. intermediate holding company may choose to comply with subpart E of 12 CFR part 217.

(ii) A U.S. intermediate holding company must comply with applicable capital adequacy standards beginning on the date that it is required to be established or designated under this subpart or, if the U.S. intermediate holding company is subject to capital adequacy standards on the date that the foreign banking organization becomes subject to paragraph (a)(1)(ii) of this section, on the date that the foreign banking organization becomes subject to this subpart.

(2) *Capital planning.* (i) A U.S. intermediate holding company with total consolidated assets of \$100 billion or more must comply with 12 CFR 225.8 in the same manner as a bank holding company.

(ii) A U.S. intermediate holding company with total consolidated assets of \$100 billion or more must comply with 12 CFR 225.8 on the date prescribed in the transition provisions of 12 CFR 225.8.

(3) *Risk-management and risk committee requirements—*(i) *General.* A U.S. intermediate holding company must establish and maintain a risk committee that approves and periodically reviews the risk-management policies and oversees the risk-management framework of the U.S. intermediate holding company. The risk committee must be a committee of the board of directors of the U.S. intermediate holding company (or equivalent thereof). The risk committee may also serve as the U.S. risk committee for the combined U.S. operations required pursuant to § 252.155(a).

(ii) *Risk-management framework.* The U.S. intermediate holding company's risk-management framework must be commensurate with the structure, risk profile, complexity, activities, and size of the U.S. intermediate holding company and consistent with the risk management policies for the combined U.S. operations of the foreign banking organization. The framework must include:

(A) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for the U.S. intermediate holding company; and

(B) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(1) Processes and systems for identifying and reporting risks and risk-management deficiencies at the U.S. intermediate holding company, including regarding emerging risks and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies;

(2) Processes and systems for establishing managerial and employee responsibility for risk management of the U.S. intermediate holding company;

(3) Processes and systems for ensuring the independence of the risk-management function of the U.S. intermediate holding company; and

(4) Processes and systems to integrate risk management and associated controls with management goals and the compensation structure of the U.S. intermediate holding company.

(iii) *Corporate governance requirements.* The risk committee of the U.S. intermediate holding company

must meet at least quarterly and otherwise as needed, and must fully document and maintain records of its proceedings, including risk-management decisions.

(iv) *Minimum member requirements.* The risk committee must:

(A) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(B) Have at least one member who:

(1) Is not an officer or employee of the foreign banking organization or its affiliates and has not been an officer or employee of the foreign banking organization or its affiliates during the previous three years; and

(2) Is not a member of the immediate family, as defined in 12 CFR 225.41(b)(3), of a person who is, or has been within the last three years, an executive officer, as defined in 12 CFR 215.2(e)(1), of the foreign banking organization or its affiliates.

(v) The U.S. intermediate holding company must take appropriate measures to ensure that it implements the risk-management policies for the U.S. intermediate holding company and it provides sufficient information to the U.S. risk committee to enable the U.S. risk committee to carry out the responsibilities of this subpart.

(vi) A U.S. intermediate holding company must comply with risk-committee and risk-management requirements beginning on the date that it is required to be established or designated under this subpart or, if the U.S. intermediate holding company is subject to risk-committee and risk-management requirements on the date that the foreign banking organization becomes subject to § 252.153(a)(1)(ii), on the date that the foreign banking organization becomes subject to this subpart.

(4) *Liquidity requirements.* (i) A U.S. intermediate holding company must comply with the liquidity risk-management requirements in § 252.156 and conduct liquidity stress tests and hold a liquidity buffer pursuant to § 252.157.

(ii) A U.S. intermediate holding company must comply with liquidity risk-management, liquidity stress test, and liquidity buffer requirements beginning on the date that it is required to be established or designated under this subpart.

(5) *Stress test requirements.* (i)(A) A U.S. intermediate holding company with total consolidated assets of \$100 billion or more must comply with the requirements of subpart E of this part in the same manner as a bank holding company;

(B) A U.S. intermediate holding company must comply with the requirements of subpart E beginning the later of:

(1) The stress test cycle of the calendar year after the calendar year in which the U.S. intermediate holding company becomes subject to regulatory capital requirements; or

(2) The transition period provided under subpart E.

(ii)(A) A Category II U.S. intermediate holding company or a Category III U.S. intermediate holding company must comply with the requirements of subpart F of this part in the same manner as a bank holding company;

(B) A Category II U.S. intermediate holding company or Category III U.S. intermediate holding company must comply with the requirements of subpart F beginning the later of:

(1) The stress test cycle of the calendar year after the calendar year in which the U.S. intermediate holding company becomes subject to regulatory capital requirements; or

(2) The transition period provided under subpart F.

■ 70. In § 252.154 the section heading and paragraphs (a)(1), (b), and (c) are revised to read as follows:

**§ 252.154 Risk-based and leverage capital requirements for foreign banking organizations with combined U.S. assets of \$100 billion or more.**

(a) \* \* \*

(1) A foreign banking organization subject to this subpart more must certify to the Board that it meets capital adequacy standards on a consolidated basis that are established by its home-country supervisor and that are consistent with the regulatory capital framework published by the Basel Committee on Banking Supervision, as amended from time to time (Basel Capital Framework).

\* \* \* \* \*

(b) *Reporting.* A foreign banking organization subject to this subpart must provide to the Board reports relating to its compliance with the capital adequacy measures described in paragraph (a) of this section concurrently with filing the FR Y-7Q.

(c) *Noncompliance with the Basel Capital Framework.* If a foreign banking organization does not satisfy the requirements of this section, the Board may impose requirements, conditions, or restrictions relating to the activities or business operations of the U.S. operations of the foreign banking organization. The Board will coordinate with any relevant State or Federal regulator in the implementation of such requirements, conditions, or

restrictions. If the Board determines to impose one or more requirements, conditions, or restrictions under this paragraph, the Board will notify the organization before it applies any requirement, condition, or restriction, and describe the basis for imposing such requirement, condition, or restriction. Within 14 calendar days of receipt of a notification under this paragraph, the organization may request in writing that the Board reconsider the requirement, condition, or restriction. The Board will respond in writing to the organization's request for reconsideration prior to applying the requirement, condition, or restriction.

■ 71. In § 252.155 revise the section heading and paragraphs (a)(1) and (3) and (b)(1) to read as follows:

**§ 252.155 Risk-management and risk-committee requirements for foreign banking organizations with combined U.S. assets of \$100 billion or more.**

(a) \* \* \*

(1) *General.* A foreign banking organization subject to this subpart must maintain a U.S. risk committee that approves and periodically reviews the risk-management policies of the combined U.S. operations of the foreign banking organization and oversees the risk-management framework of such combined U.S. operations. The U.S. risk committee's responsibilities include the liquidity risk-management responsibilities set forth in § 252.156(a).

\* \* \* \* \*

(3) *Placement of the U.S. risk committee.* (i) A foreign banking organization that conducts its operations in the United States solely through a U.S. intermediate holding company must maintain its U.S. risk committee as a committee of the board of directors of its U.S. intermediate holding company (or equivalent thereof).

(ii) A foreign banking organization that conducts its operations through U.S. branches or U.S. agencies (in addition to through its U.S. intermediate holding company, if any) may maintain its U.S. risk committee either:

(A) As a committee of the global board of directors (or equivalent thereof), on a standalone basis or as a joint committee with its enterprise-wide risk committee (or equivalent thereof); or

(B) As a committee of the board of directors of its U.S. intermediate holding company (or equivalent thereof), on a standalone basis or as a joint committee with the risk committee of its U.S. intermediate holding company required pursuant to § 252.153(e)(3).

\* \* \* \* \*

(b) \* \* \*

(1) *General.* A foreign banking organization subject to this subpart or its U.S. intermediate holding company, if any, must appoint a U.S. chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

\* \* \* \* \*

■ 72. In § 252.156, the section heading and paragraphs (a)(1) introductory text, (b)(1) and (2), (b)(3)(i), (b)(4) through (6), (c)(1), (c)(2)(ii), (d)(1), (e)(1), (e)(2)(i)(A) and (C), (e)(2)(ii)(A), (f), and (g) are revised to read as follows:

The revisions read as follows:

**§ 252.156 Liquidity risk-management requirements for foreign banking organizations with combined U.S. assets of \$100 billion or more.**

(a) \* \* \*

(1) The U.S. risk committee established by a foreign banking organization pursuant to § 252.155(a) (or a designated subcommittee of such committee composed of members of the board of directors (or equivalent thereof)) of the U.S. intermediate holding company or the foreign banking organization, as appropriate must:

\* \* \* \* \*

(b) \* \* \*

(1) *Liquidity risk.* The U.S. chief risk officer of a foreign banking organization subject to this subpart must review the strategies and policies and procedures established by senior management of the U.S. operations for managing the risk that the financial condition or safety and soundness of the foreign banking organization's combined U.S. operations would be adversely affected by its inability or the market's perception of its inability to meet its cash and collateral obligations (liquidity risk).

(2) *Liquidity risk tolerance.* The U.S. chief risk officer of a foreign banking organization subject to this subpart must review information provided by the senior management of the U.S. operations to determine whether the combined U.S. operations are operating in accordance with the established liquidity risk tolerance. The U.S. chief risk officer must regularly, and, at least semi-annually, report to the foreign banking organization's U.S. risk committee and enterprise-wide risk committee, or the equivalent thereof (if any) (or a designated subcommittee of such committee composed of members of the relevant board of directors (or equivalent thereof)) on the liquidity risk profile of the foreign banking organization's combined U.S. operations and whether it is operating in accordance with the established liquidity risk tolerance for the U.S.

operations, and must establish procedures governing the content of such reports.

(3) \* \* \*

(i) The U.S. chief risk officer of a foreign banking organization subject to this subpart must approve new products and business lines and evaluate the liquidity costs, benefits, and risks of each new business line and each new product offered, managed or sold through the foreign banking organization's combined U.S. operations that could have a significant effect on the liquidity risk profile of the U.S. operations of the foreign banking organization. The approval is required before the foreign banking organization implements the business line or offers the product through its combined U.S. operations. In determining whether to approve the new business line or product, the U.S. chief risk officer must consider whether the liquidity risk of the new business line or product (under both current and stressed conditions) is within the foreign banking organization's established liquidity risk tolerance for its combined U.S. operations.

\* \* \* \* \*

(4) *Cash-flow projections.* The U.S. chief risk officer of a foreign banking organization subject to this subpart must review the cash-flow projections produced under paragraph (d) of this section at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the foreign banking organization or the U.S. operations warrant) to ensure that the liquidity risk of the foreign banking organization's combined U.S. operations is within the established liquidity risk tolerance.

(5) *Liquidity risk limits.* The U.S. chief risk officer of a foreign banking organization subject to this subpart must establish liquidity risk limits as set forth in paragraph (f) of this section and review the foreign banking organization's compliance with those limits at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the U.S. operations of the foreign banking organization warrant).

(6) *Liquidity stress testing.* The U.S. chief risk officer of a foreign banking organization subject to this subpart must:

(i) Approve the liquidity stress testing practices, methodologies, and assumptions required in § 252.157(a) at least quarterly, and whenever the foreign banking organization materially

revises its liquidity stress testing practices, methodologies or assumptions;

(ii) Review the liquidity stress testing results produced under § 252.157(a) of this subpart at least quarterly; and

(iii) Approve the size and composition of the liquidity buffer established under § 252.157(c) of this subpart at least quarterly.

(c) \* \* \*

(1) A foreign banking organization subject to this subpart must establish and maintain a review function, which is independent of the management functions that execute funding for its combined U.S. operations, to evaluate the liquidity risk management for its combined U.S. operations.

(2) \* \* \*

(ii) Assess whether the foreign banking organization's liquidity risk-management function of its combined U.S. operations complies with applicable laws and regulations, and sound business practices; and

\* \* \* \* \*

(d) \* \* \*

(1) A foreign banking organization subject to this subpart must produce comprehensive cash-flow projections for its combined U.S. operations that project cash flows arising from assets, liabilities, and off-balance sheet exposures over, at a minimum, short- and long-term time horizons. The foreign banking organization must update short-term cash-flow projections daily and must update longer-term cash-flow projections at least monthly.

\* \* \* \* \*

(e) \* \* \*

(1) A foreign banking organization subject to this subpart must establish and maintain a contingency funding plan for its combined U.S. operations that sets out the foreign banking organization's strategies for addressing liquidity needs during liquidity stress events. The contingency funding plan must be commensurate with the capital structure, risk profile, complexity, activities, size, and the established liquidity risk tolerance for the combined U.S. operations. The foreign banking organization must update the contingency funding plan for its combined U.S. operations at least annually, and when changes to market and idiosyncratic conditions warrant.

(2) \* \* \*

(i) \* \* \*

(A) Identify liquidity stress events that could have a significant impact on the liquidity of the foreign banking organization or its combined U.S. operations;

\* \* \* \* \*

(C) Identify the circumstances in which the foreign banking organization would implement its action plan described in paragraph (e)(2)(ii)(A) of this section, which circumstances must include failure to meet any minimum liquidity requirement imposed by the Board on the foreign banking organization's combined U.S. operations;

\* \* \* \* \*

(ii) \* \* \*

(A) Include an action plan that clearly describes the strategies that the foreign banking organization will use to respond to liquidity shortfalls in its combined U.S. operations for identified liquidity stress events, including the methods that the organization or the combined U.S. operations will use to access alternative funding sources;

\* \* \* \* \*

(f) *Liquidity risk limits—(1) General.* A foreign banking organization must monitor sources of liquidity risk and establish limits on liquidity risk that are consistent with the organization's established liquidity risk tolerance and that reflect the organization's capital structure, risk profile, complexity, activities, and size.

(2) *Liquidity risk limits established by a Category II foreign banking organization or Category III foreign banking organization.* If the foreign banking organization is not a Category IV foreign banking organization, liquidity risk limits established under paragraph (f)(1) of this section must include limits on:

(i) Concentrations in sources of funding by instrument type, single counterparty, counterparty type, secured and unsecured funding, and as applicable, other forms of liquidity risk;

(ii) The amount of liabilities that mature within various time horizons; and

(iii) Off-balance sheet exposures and other exposures that could create funding needs during liquidity stress events.

(g) *Collateral, legal entity, and intraday liquidity risk monitoring.* A foreign banking organization subject to this subpart or more must establish and maintain procedures for monitoring liquidity risk as set forth in this paragraph (g).

(1) *Collateral.* The foreign banking organization must establish and maintain policies and procedures to monitor assets that have been, or are available to be, pledged as collateral in connection with transactions to which entities in its U.S. operations are counterparties. These policies and procedures must provide that the foreign banking organization:

(i) Calculates all of the collateral positions for its combined U.S. operations according to the frequency specified in paragraph (g)(1)(i)(A) or (B) of this section or as directed by the Board, specifying the value of pledged assets relative to the amount of security required under the relevant contracts and the value of unencumbered assets available to be pledged;

(A) If the foreign banking organization is not a Category IV foreign banking organization, on at least a weekly basis; or

(B) If the foreign banking organization is a Category IV foreign banking organization, on at least a monthly basis;

(ii) Monitors the levels of unencumbered assets available to be pledged by legal entity, jurisdiction, and currency exposure;

(iii) Monitors shifts in the foreign banking organization's funding patterns, including shifts between intraday, overnight, and term pledging of collateral; and

(iv) Tracks operational and timing requirements associated with accessing collateral at its physical location (for example, the custodian or securities settlement system that holds the collateral).

(2) *Legal entities, currencies and business lines.* The foreign banking organization must establish and maintain procedures for monitoring and controlling liquidity risk exposures and funding needs of its combined U.S. operations, within and across significant legal entities, currencies, and business lines and taking into account legal and regulatory restrictions on the transfer of liquidity between legal entities.

(3) *Intraday exposure.* The foreign banking organization must establish and maintain procedures for monitoring intraday liquidity risk exposure for its combined U.S. operations that are consistent with the capital structure, risk profile, complexity, activities, and size of the foreign banking organization and its combined U.S. operations. If the foreign banking organization is not a Category IV banking organization these procedures must address how the management of the combined U.S. operations will:

(i) Monitor and measure expected gross daily inflows and outflows;

(ii) Manage and transfer collateral to obtain intraday credit;

(iii) Identify and prioritize time-specific obligations so that the foreign banking organizations can meet these obligations as expected and settle less critical obligations as soon as possible;

(iv) Manage the issuance of credit to customers where necessary; and

(v) Consider the amounts of collateral and liquidity needed to meet payment systems obligations when assessing the overall liquidity needs of the combined U.S. operations.

■ 73. In § 252.157:

■ a. The section heading and paragraphs (a)(1)(i) through (iv), (a)(2), and (a)(7)(i) through (iii) are revised;

■ b. Paragraph (a)(8) is added;

■ c. Paragraphs (b) and (c)(1) and (c)(7)(i) through (iv) are revised; and

■ d. Paragraph (c)(7)(v) is added.

The revisions and addition read as follows:

**§ 252.157 Liquidity stress testing and buffer requirements for foreign banking organizations with combined U.S. assets of \$100 billion or more.**

(a) \* \* \*

(1) \* \* \*

(i) A foreign banking organization subject to this subpart must conduct stress tests to separately assess the potential impact of liquidity stress scenarios on the cash flows, liquidity position, profitability, and solvency of:

(A) Its combined U.S. operations as a whole;

(B) Its U.S. branches and agencies on an aggregate basis; and

(C) Its U.S. intermediate holding company, if any.

(ii) Each liquidity stress test required under this paragraph (a)(1) must use the stress scenarios described in paragraph (a)(3) of this section and take into account the current liquidity condition, risks, exposures, strategies, and activities of the combined U.S. operations.

(iii) The liquidity stress tests required under this paragraph (a)(1) must take into consideration the balance sheet exposures, off-balance sheet exposures, size, risk profile, complexity, business lines, organizational structure and other characteristics of the foreign banking organization and its combined U.S. operations that affect the liquidity risk profile of the combined U.S. operations.

(iv) In conducting a liquidity stress test using the scenarios described in paragraphs (a)(3)(i) and (iii) of this section, the foreign banking organization must address the potential direct adverse impact of associated market disruptions on the foreign banking organization's combined U.S. operations and the related indirect effect such impact could have on the combined U.S. operations of the foreign banking organization and incorporate the potential actions of other market participants experiencing liquidity stresses under the market disruptions that would adversely affect the foreign banking organization or its combined U.S. operations.

(2) *Frequency.* The foreign banking organization must perform the liquidity stress tests required under paragraph (a)(1) of this section according to the frequency specified in paragraph (a)(2)(i) or (ii) of this section or as directed by the Board:

(i) If the foreign banking organization is not a Category IV foreign banking organization, at least monthly; or

(ii) If the foreign banking organization is a Category IV foreign banking organization, at least quarterly.

\* \* \* \* \*

(7) \* \* \*

(i) *Stress test function.* A foreign banking organization subject to this subpart, within its combined U.S. operations and its enterprise-wide risk management, must establish and maintain policies and procedures governing its liquidity stress testing practices, methodologies, and assumptions that provide for the incorporation of the results of liquidity stress tests in future stress testing and for the enhancement of stress testing practices over time.

(ii) *Controls and oversight.* The foreign banking organization must establish and maintain a system of controls and oversight that is designed to ensure that its liquidity stress testing processes are effective in meeting the requirements of this section. The controls and oversight must ensure that each liquidity stress test appropriately incorporates conservative assumptions with respect to the stress scenario in paragraph (a)(3) of this section and other elements of the stress-test process, taking into consideration the capital structure, risk profile, complexity, activities, size, and other relevant factors of the combined U.S. operations. These assumptions must be approved by U.S. chief risk officer and subject to independent review consistent with the standards set out in § 252.156(c).

(iii) *Management information systems.* The foreign banking organization must maintain management information systems and data processes sufficient to enable it to effectively and reliably collect, sort, and aggregate data and other information related to the liquidity stress testing of its combined U.S. operations.

(8) *Notice and response.* If the Board determines that a foreign banking organization must conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section, the Board will notify the foreign banking organization before the change in frequency takes effect, and describe the basis for its determination. Within

14 calendar days of receipt of a notification under this paragraph, the foreign banking organization may request in writing that the Board reconsider the requirement. The Board will respond in writing to the organization's request for reconsideration prior to requiring the foreign banking organization to conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section.

(b) *Reporting of liquidity stress tests required by home-country regulators.* A foreign banking organization subject to this subpart must make available to the Board, in a timely manner, the results of any liquidity internal stress tests and establishment of liquidity buffers required by regulators in its home jurisdiction. The report required under this paragraph must include the results of its liquidity stress test and liquidity buffer, if required by the laws or regulations implemented in the home jurisdiction, or expected under supervisory guidance.

(c) \* \* \*

(1) *General.* A foreign banking organization subject to this subpart must maintain a liquidity buffer for its U.S. intermediate holding company, if any, calculated in accordance with paragraph (c)(2) of this section, and a separate liquidity buffer for its U.S. branches and agencies, if any, calculated in accordance with paragraph (c)(3) of this section.

\* \* \* \* \*

(7) \* \* \*

(i) *Highly liquid assets.* The asset must be a highly liquid asset. For these purposes, a highly liquid asset includes:

(A) Cash;

(B) Assets that meet the criteria for high quality liquid assets as defined in 12 CFR 249.20; or

(C) Any other asset that the foreign banking organization demonstrates to the satisfaction of the Board:

(1) Has low credit risk and low market risk;

(2) Is traded in an active secondary two-way market that has committed market makers and independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a reasonable time period conforming with trade custom; and

(3) Is a type of asset that investors historically have purchased in periods of financial market distress during which market liquidity has been impaired.

(ii) *Unencumbered.* The asset must be unencumbered. For these purposes, an asset is unencumbered if it:

(A) Is free of legal, regulatory, contractual or other restrictions on the ability of such company promptly to liquidate, sell or transfer the asset; and

(B) Is either:

(1) Not pledged or used to secure or provide credit enhancement to any transaction; or

(2) Pledged to a central bank or a U.S. government-sponsored enterprise, to the extent potential credit secured by the asset is not currently extended by such central bank or U.S. government-sponsored enterprise or any of its consolidated subsidiaries.

(iii) *Calculating the amount of a highly liquid asset.* In calculating the amount of a highly liquid asset included in the liquidity buffer, the foreign banking organization must discount the fair market value of the asset to reflect any credit risk and market price volatility of the asset.

(iv) *Operational requirements.* With respect to the liquidity buffer, the foreign banking organization must:

(A) Establish and implement policies and procedures that require highly liquid assets comprising the liquidity buffer to be under the control of the management function in the foreign banking organization that is charged with managing liquidity risk of its combined U.S. operations; and

(B) Demonstrate the capability to monetize a highly liquid asset under each scenario required under § 252.157(a)(3).

(v) *Diversification.* The liquidity buffer must not contain significant concentrations of highly liquid assets by issuer, business sector, region, or other factor related to the foreign banking organization's risk, except with respect to cash and securities issued or guaranteed by the United States, a U.S. government agency, or a U.S. government sponsored enterprise.

\* \* \* \* \*

■ 74. In § 252.158, the section heading and paragraphs (b)(1) introductory text, (b)(2)(i), (c)(1) introductory text, and (c)(2) introductory text are revised to read as follows:

**§ 252.158 Capital stress testing requirements for foreign banking organizations with combined U.S. assets of \$100 billion or more.**

\* \* \* \* \*

(b) \* \* \*

(1) A foreign banking organization subject to this subpart and that has a U.S. branch or U.S. agency must:

\* \* \* \* \*

(2) \* \* \*

(i) A supervisory capital stress test conducted by the foreign banking organization's home-country supervisor or an evaluation and review by the foreign banking organization's home-country supervisor of an internal capital adequacy stress test conducted by the foreign banking organization, according to the frequency specified in paragraph (b)(2)(A) or (B):

(A) If the foreign banking organization is not a Category IV foreign banking organization, at least annually; or

(B) If the foreign banking organization is a Category IV foreign banking organization, at least biennially; and

\* \* \* \* \*

(c) \* \* \*

(1) *In general.* A foreign banking organization subject to this subpart must report to the Board by January 5 of each calendar year, unless such date is extended by the Board, summary information about its stress-testing activities and results, including the following quantitative and qualitative information:

\* \* \* \* \*

(2) *Additional information required for foreign banking organizations in a net due from position.* If, on a net basis, the U.S. branches and agencies of a foreign banking organization subject to this subpart provide funding to the foreign banking organization's non-U.S. offices and non-U.S. affiliates, calculated as the average daily position over a stress test cycle for a given year, the foreign banking organization must report the following information to the Board by January 5 of each calendar year, unless such date is extended by the Board:

\* \* \* \* \*

**Subpart Q—Single-Counterparty Credit Limits**

■ 75. Section 252.170 is revised to read as follows:

**§ 252.170 Applicability and general provisions.**

(a) *In general.* (1) This subpart establishes single counterparty credit limits for a covered foreign entity.

(2) For purposes of this subpart:

(i) *Covered foreign entity* means:

(A) A Category II foreign banking organization;

(B) A Category III foreign banking organization;

(C) A foreign banking organization with total consolidated assets that equal or exceed \$250 billion;

(D) A Category II U.S. intermediate holding company; and

(E) A Category III U.S. intermediate holding company.



(ii) *Major foreign banking organization* means a foreign banking organization that is a covered foreign entity and meets the requirements of § 252.172(c)(3) through (5).

(b) *Credit exposure limits.* (1) Section 252.172 establishes credit exposure limits for covered foreign entities and major foreign banking organizations.

(2) A covered foreign entity is required to calculate its aggregate net credit exposure, gross credit exposure, and net credit exposure to a counterparty using the methods in this subpart.

(c) *Applicability of this subpart—(1) Foreign banking organizations.* (i) A foreign banking organization that is a covered foreign entity as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on July 1, 2020, unless that time is extended by the Board in writing.

(ii) Notwithstanding paragraph (c)(1)(i) of this section, a foreign banking organization that is a major foreign banking organization as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on January 1, 2020, unless that time is extended by the Board in writing.

(iii) A foreign banking organization that becomes a covered foreign entity subject to this subpart after October 5, 2018, must comply with the requirements of this subpart beginning on the first day of the ninth calendar quarter after it becomes a covered foreign entity, unless that time is accelerated or extended by the Board in writing.

(2) *U.S. intermediate holding companies.* (i) A U.S. intermediate holding company that is a covered foreign entity as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on July 1, 2020, unless that time is extended by the Board in writing.

(ii) [Reserved]  
(iii) A U.S. intermediate holding company that becomes a covered foreign entity subject to this subpart after October 5, 2018, must comply with the requirements of this subpart beginning on the first day of the ninth calendar quarter after it becomes a covered foreign entity, unless that time is accelerated or extended by the Board in writing.

(d) *Cessation of requirements—(1) Foreign banking organizations.* (i) Any foreign banking organization that becomes a covered foreign entity will remain subject to the requirements of this subpart unless and until:

(A) The covered foreign entity is not a Category II foreign banking organization;

(B) The covered foreign entity is not a Category III foreign banking organization; and

(C) Its total consolidated assets fall below \$250 billion for each of four consecutive quarters, as reported on the covered foreign entity's FR Y-7Q, effective on the as-of date of the fourth consecutive FR Y-7Q.

(ii) A foreign banking organization that is a covered foreign entity and that has ceased to be a major foreign banking organization for purposes of § 252.172(c) is no longer subject to the requirements of § 252.172(c) beginning on the first day of the calendar quarter following the reporting date on which it ceased to be a major foreign banking organization; provided that the foreign banking organization remains subject to the requirements of this subpart, unless it ceases to be a foreign banking organization that is a covered foreign entity pursuant to paragraph (d)(1)(i) of this section.

(2) *U.S. intermediate holding companies.* (i) Any U.S. intermediate holding company that becomes a covered foreign entity will remain subject to the requirements of this subpart unless and until:

(A) The covered foreign entity is not a Category II U.S. intermediate holding company; or

(B) The covered foreign entity is not a Category III U.S. intermediate holding company.

- 76. In § 252.171,
- a. Paragraph (f)(1) is revised;
- b. Paragraph (aa) is removed; and
- c. Paragraphs (bb) through (ll) are redesignated as paragraphs (aa) through (kk).

The revision reads as follows:

**§ 252.171 Definitions.**

\* \* \* \* \*

(f) \* \* \*

(1) With respect to a natural person:

(i) The natural person;

(ii) Except as provided in paragraph (f)(1)(iii) of this section, if the credit exposure of the covered foreign entity to such natural person exceeds 5 percent of tier 1 capital, the natural person and members of the person's immediate family collectively; and

(iii) Until January 1, 2021, with respect to a U.S. intermediate holding company that is a covered foreign entity and that has less than \$250 billion in total consolidated assets as of December 31, 2019, if the credit exposure of the U.S. intermediate holding company to such natural person exceeds 5 percent of its capital stock and surplus, the

natural person and member of the person's immediately family collectively.

\* \* \* \* \*

■ 77. In § 252.172:

■ a. Paragraphs (a), (b), and (c) introductory text are revised;

■ b. Paragraph (c)(1) is removed and reserved; and

■ c. Paragraph (c)(2) is revised.

The revisions read as follows:

**§ 252.172 Credit exposure limits.**

(a) *Transition limit on aggregate credit exposure for certain covered foreign entities.* (1) A U.S. intermediate holding company that is a covered foreign entity and that has less than \$250 billion in total consolidated assets as of December 31, 2019 is not required to comply with paragraph (b)(1) of this section until January 1, 2021.

(2) Until January 1, 2021, no U.S. intermediate holding company that is a covered foreign entity and that has less than \$250 billion in total consolidated assets as of December 31, 2019 may have an aggregate net credit exposure that exceeds 25 percent of the consolidated capital stock and surplus of the U.S. intermediate holding company.

(b) *Limit on aggregate net credit exposure for covered foreign entities.* (1) Except as provided in paragraph (a) of this section, no U.S. intermediate holding company that is a covered foreign entity may have an aggregate net credit exposure to any counterparty that exceeds 25 percent of the tier 1 capital of the U.S. intermediate holding company.

(2) No foreign banking organization that is a covered foreign entity may permit its combined U.S. operations to have aggregate net credit exposure to any counterparty that exceeds 25 percent of the tier 1 capital of the foreign banking organization.

(c) *Limit on aggregate net credit exposure of major foreign banking organizations to major counterparties.*

(1) [Reserved]

(2) No major foreign banking organization may permit its combined U.S. operations to have aggregate net credit exposure to any major counterparty that exceeds 15 percent of the tier 1 capital of the major foreign banking organization.

\* \* \* \* \*

■ 76. In § 252.173 paragraphs (b)(1) and (2) are revised and paragraph (b)(3) is added to read as follows:

**§ 252.173 Gross credit exposure.**

\* \* \* \* \*

(b) \* \* \*

(1) A U.S. intermediate holding company that is a covered foreign entity and that has less than \$250 billion in total consolidated assets as of December 31, 2019 is not required to comply with paragraph (b)(3) of this section until January 1, 2021.

(2) Until January 1, 2021, unless the Board applies the requirements of § 252.175 to the transaction pursuant to § 252.175(d), a U.S. intermediate holding company that is a covered foreign entity and that has less than \$250 billion in total consolidated assets as of December 31, 2019 must:

(i) Calculate pursuant to paragraph (a) of this section its gross credit exposure due to any investment in the debt or equity of, and any credit derivative or equity derivative between the covered foreign entity and a third party where the covered foreign entity is in the protection provider and the reference asset is an obligation or equity security of, or equity investment in, a securitization vehicle, investment fund, and other special purpose vehicle that is not an affiliate of the covered foreign entity; and

(ii) Attribute that gross credit exposure to the securitization vehicle, investment fund, or other special purpose vehicle for purposes of this subpart.

(3) Except as provided in paragraph (b)(1) of this section, a covered foreign entity must calculate pursuant to § 252.175 its gross credit exposure due to any investment in the debt or equity of, and any credit derivative or equity derivative between the covered foreign entity and a third party where the covered foreign entity is the protection provider and the reference asset is an obligation or equity security of, or equity investment in, a securitization vehicle, investment fund, and other special purpose vehicle that is not an affiliate of the covered foreign entity.

\* \* \* \* \*

■ 77. In § 252.175, paragraph (a)(1) is revised to read as follows:

**§ 252.175 Investments in an exposure to securitization vehicles, investment funds, and other special purpose vehicles that are not affiliates of the covered foreign entity.**

(a) \* \* \*

(1) This section applies to a covered foreign entity, except as provided in paragraph (a)(1)(i) of this section.

(i) Until January 1, 2021, this section does not apply to a U.S. intermediate holding company that is a covered foreign entity with less than \$250 billion in total consolidated assets as of December 31, 2019, provided that:

(A) In order to avoid evasion of this subpart, the Board may determine, after

notice to the covered foreign entity and opportunity for hearing, that a U.S. intermediate holding company with less than \$250 billion in total consolidated assets must apply either the approach in this paragraph (a) or the look-through approach in paragraph (b) of this section, or must recognize exposures to a third party that has a contractual obligation to provide credit or liquidity support to a securitization vehicle, investment fund, or other special purpose vehicle that is not an affiliate of the covered foreign entity, as provided in paragraph (c) of this section; and

(B) For purposes of paragraph (a)(1)(i)(A) of this section, the Board, in its discretion and as applicable, may allow a covered foreign entity to measure its capital base using the covered foreign entity's capital stock and surplus rather than its tier 1 capital.

\* \* \* \* \*

■ 78. In § 252.176 paragraphs (a)(1) and (a)(2)(i) are revised to read as follows:

**§ 252.176 Aggregation of exposures to more than one counterparty due to economic interdependence or control relationships.**

(a) \* \* \*

(1) This section applies to a covered foreign entity except as provided in paragraph (a)(1)(i) of this section.

(i) Until January 1, 2021, paragraphs (a)(2) through (d) of this section do not apply to a U.S. intermediate holding company that is a covered foreign entity with less than \$250 billion in total consolidated assets as of December 31, 2019.

(ii) [Reserved]

(2)(i) If a covered foreign entity has an aggregate net credit exposure to any counterparty that exceeds 5 percent of its tier 1 capital, the covered foreign entity must assess its relationship with the counterparty under paragraph (b)(2) of this section to determine whether the counterparty is economically interdependent with one or more other counterparties of the covered foreign entity and under paragraph (c)(1) of this section to determine whether the counterparty is connected by a control relationship with one or more other counterparties.

\* \* \* \* \*

■ 79. In § 252.178, paragraphs (a)(1) and (2) and (c)(2) are revised to read as follows:

**§ 252.178 Compliance.**

(a) \* \* \*

(1) Except as provided in paragraph (a)(2) of this section, using all available data, including any data required to be maintained or reported to the Federal

Reserve under this subpart, a covered foreign entity must comply with the requirements of this subpart on a daily basis at the end of each business day.

(2) Until December 31, 2020, using all available data, including any data required to be maintained or reported to the Federal Reserve under this subpart, a U.S. intermediate holding company that is a covered foreign entity with less than \$250 billion in total consolidated assets as of December 31, 2019 must comply with the requirements of this subpart on a quarterly basis, unless the Board determines and notifies the entity in writing that more frequent compliance is required.

\* \* \* \* \*

(c) \* \* \*

(2) A covered foreign entity may request a special temporary credit exposure limit exemption from the Board. The Board may grant approval for such exemption in cases where the Board determines that such credit transactions are necessary or appropriate to preserve the safety and soundness of the covered foreign entity or U.S. financial stability. In acting on a request for an exemption, the Board will consider the following:

(i) A decrease in the covered foreign entity's capital stock and surplus or tier 1 capital, as applicable;

(ii) The merger of the covered foreign entity with another covered foreign entity;

(iii) A merger of two counterparties; or

(iv) An unforeseen and abrupt change in the status of a counterparty as a result of which the covered foreign entity's credit exposure to the counterparty becomes limited by the requirements of this section; or

(v) Any other factor(s) the Board determines, in its discretion, is appropriate.

\* \* \* \* \*

■ 80. In appendix A to part 252:

■ a. Section 1, paragraphs (a) and (b) are revised;

■ b. Section 2 is revised

■ c. Section 3, paragraph (a) is revised

■ d. Section 3.2, paragraph (a) is revised;

■ e. Section 4 is revised;

■ f. Section 4.1, paragraph (a) is revised;

■ g. Section 4.2 is revised;

■ h. Section 4.3 is removed;

■ i. Section 5, paragraphs (a) and (b) are revised;

■ j. Section 5.2.2, paragraph (a) is revised;

■ k. Section 5.3 is removed; and

■ l. Section 6, paragraph (d) is removed.

The revisions read as follows:

## Appendix A to Part 252—Policy Statement on the Scenario Design Framework for Stress Testing

### 1. Background

(a) The Board has imposed stress testing requirements through its regulations (stress test rules) implementing section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or Act) and section 401(e) of the Economic Growth, Regulatory Relief, and Consumer Protection Act, and through its capital plan rule (12 CFR 225.8). Under the stress test rules, the Board conducts a supervisory stress test of each bank holding company with total consolidated assets of \$100 billion or more, intermediate holding company of a foreign banking organization with total consolidated assets of \$100 billion or more, and nonbank financial company that the Financial Stability Oversight Council has designated for supervision by the Board (together, covered companies).<sup>1</sup> In addition, under the stress test rules, certain firms are also subject to company-run stress test requirements.<sup>2</sup> The Board will provide for at least two different sets of conditions (each set, a scenario), including baseline and severely adverse scenarios for both supervisory and company-run stress tests (macroeconomic scenarios).<sup>3</sup>

(b) The stress test rules provide that the Board will notify covered companies by no later than February 15 of each year of the scenarios it will use to conduct its supervisory stress tests and provide, also by no later than February 15, covered companies and other financial companies subject to the final rules the set of scenarios they must use to conduct their company-run stress tests. Under the stress test rules, the Board may require certain companies to use additional components in the severely adverse scenario or additional scenarios. For example, the Board expects to require large banking organizations with significant trading activities to include a trading and counterparty component (market shock, described in the following sections) in their severely adverse scenario. The Board will provide any additional components or scenario by no later than March 1 of each year.<sup>4</sup> The Board expects that the scenarios it will require the companies to use will be

<sup>1</sup> 12 U.S.C. 5365(i)(1); 12 CFR part 252, subpart E.

<sup>2</sup> 12 U.S.C. 5365(i)(2); 12 CFR part 252, subparts B and F.

<sup>3</sup> The stress test rules define scenarios as those sets of conditions that affect the United States economy or the financial condition of a company that the Board determines are appropriate for use in stress tests, including, but not limited to, baseline and severely adverse scenarios. The stress test rules define baseline scenario as a set of conditions that affect the United States economy or the financial condition of a company and that reflect the consensus views of the economic and financial outlook. The stress test rules define severely adverse scenario as a set of conditions that affect the U.S. economy or the financial condition of a company and that overall are significantly more severe than those associated with the baseline scenario and may include trading or other additional components.

<sup>4</sup> *Id.*

the same as those the Board will use to conduct its supervisory stress tests (together, stress test scenarios).

\* \* \* \* \*

### 2. Overview and Scope

(a) This policy statement provides more detail on the characteristics of the stress test scenarios and explains the considerations and procedures that underlie the approach for formulating these scenarios. The considerations and procedures described in this policy statement apply to the Board's stress testing framework, including to the stress tests required under 12 CFR part 252, subparts B, E, and F as well as the Board's capital plan rule (12 CFR 225.8).<sup>6</sup>

(b) Although the Board does not envision that the broad approach used to develop scenarios will change from year to year, the stress test scenarios will reflect changes in the outlook for economic and financial conditions and changes to specific risks or vulnerabilities that the Board, in consultation with the other federal banking agencies, determines should be considered in the annual stress tests. The stress test scenarios should not be regarded as forecasts; rather, they are hypothetical paths of economic variables that will be used to assess the strength and resilience of the companies' capital in various economic and financial environments.

(c) The remainder of this policy statement is organized as follows. Section 3 provides a broad description of the baseline and severely adverse scenarios and describes the types of variables that the Board expects to include in the macroeconomic scenarios and the market shock component of the stress test scenarios applicable to companies with significant trading activity. Section 4 describes the Board's approach for developing the macroeconomic scenarios, and section 5 describes the approach for the market shocks. Section 6 describes the relationship between the macroeconomic scenario and the market shock components. Section 7 provides a timeline for the formulation and publication of the macroeconomic assumptions and market shocks.

### 3. Content of the Stress Test Scenarios

(a) The Board will publish a minimum of two different scenarios, including baseline and severely adverse conditions, for use in stress tests required in the stress test rules.<sup>7</sup> In general, the Board anticipates that it will not issue additional scenarios. Specific circumstances or vulnerabilities that in any given year the Board determines require particular vigilance to ensure the resilience of the banking sector will be captured in the severely adverse scenario. A greater number of scenarios could be needed in some years—for example, because the Board identifies a large number of unrelated and uncorrelated but nonetheless significant risks.

\* \* \* \* \*

<sup>6</sup> 12 CFR 252.14(a), 12 CFR 252.44(a), 12 CFR 252.54(a).

<sup>7</sup> 12 CFR 252.14(b), 12 CFR 252.44(b), 12 CFR 252.54(b).

### 3.2 Market Shock Component

(a) The market shock component of the severely adverse scenario will only apply to companies with significant trading activity and their subsidiaries.<sup>10</sup> The component consists of large moves in market prices and rates that would be expected to generate losses. Market shocks differ from macroeconomic scenarios in a number of ways, both in their design and application. For instance, market shocks that might typically be observed over an extended period (*e.g.*, 6 months) are assumed to be an instantaneous event which immediately affects the market value of the companies' trading assets and liabilities. In addition, under the stress test rules, the as-of date for market shocks will differ from the quarter-end, and the Board will provide the as-of date for market shocks no later than February 1 of each year. Finally, as described in section 4, the market shock includes a much larger set of risk factors than the set of economic and financial variables included in macroeconomic scenarios. Broadly, these risk factors include shocks to financial market variables that affect asset prices, such as a credit spread or the yield on a bond, and, in some cases, the value of the position itself (*e.g.*, the market value of private equity positions).

\* \* \* \* \*

### 4. Approach for Formulating the Macroeconomic Assumptions for Scenarios

(a) This section describes the Board's approach for formulating macroeconomic assumptions for each scenario. The methodologies for formulating this part of each scenario differ by scenario, so these methodologies for the baseline and severely adverse scenarios are described separately in each of the following subsections.

(b) In general, the baseline scenario will reflect the most recently available consensus views of the macroeconomic outlook expressed by professional forecasters, government agencies, and other public-sector organizations as of the beginning of the stress-test cycle. The severely adverse scenario will consist of a set of economic and financial conditions that reflect the conditions of post-war U.S. recessions.

(c) Each of these scenarios is described further in sections below as follows: Baseline (subsection 4.1) and severely adverse (subsection 4.2)

#### 4.1 Approach for Formulating Macroeconomic Assumptions in the Baseline Scenario

(a) The stress test rules define the baseline scenario as a set of conditions that affect the

<sup>10</sup> Currently, companies with significant trading activity include any bank holding company or intermediate holding company that (1) has aggregate trading assets and liabilities of \$50 billion or more, or aggregate trading assets and liabilities equal to 10 percent or more of total consolidated assets, and (2) is not a large and noncomplex firm. The Board may also subject a state member bank subsidiary of any such bank holding company to the market shock component. The set of companies subject to the market shock component could change over time as the size, scope, and complexity of financial company's trading activities evolve.

U.S. economy or the financial condition of a banking organization, and that reflect the consensus views of the economic and financial outlook. Projections under a baseline scenario are used to evaluate how companies would perform in more likely economic and financial conditions. The baseline serves also as a point of comparison to the severely adverse scenario, giving some sense of how much of the company's capital decline could be ascribed to the scenario as opposed to the company's capital adequacy under expected conditions.

\* \* \* \* \*

#### 4.2 Approach for Formulating the Macroeconomic Assumptions in the Severely Adverse Scenario

The stress test rules define a severely adverse scenario as a set of conditions that affect the U.S. economy or the financial condition of a financial company and that overall are significantly more severe than those associated with the baseline scenario. The financial company will be required to publicly disclose a summary of the results of its stress test under the severely adverse scenario, and the Board intends to publicly disclose the results of its analysis of the financial company under the severely adverse scenario.

\* \* \* \* \*

#### 5. Approach for Formulating the Market Shock Component

(a) This section discusses the approach the Board proposes to adopt for developing the market shock component of the severely adverse scenario appropriate for companies with significant trading activities. The design and specification of the market shock component differs from that of the macroeconomic scenarios because profits and losses from trading are measured in mark-to-market terms, while revenues and losses from traditional banking are generally measured using the accrual method. As noted above, another critical difference is the time-evolution of the market shock component. The market shock component consists of an instantaneous "shock" to a large number of risk factors that determine the mark-to-market value of trading positions, while the macroeconomic scenarios supply a projected path of economic variables that affect traditional banking activities over the entire planning period.

(b) The development of the market shock component that are detailed in this section are as follows: Baseline (subsection 5.1) and severely adverse (subsection 5.2).

\* \* \* \* \*

#### 5.2.2 Approaches to Market Shock Design

(a) As an additional component of the severely adverse scenario, the Board plans to use a standardized set of market shocks that apply to all companies with significant trading activity. The market shocks could be based on a single historical episode, multiple historical periods, hypothetical (but plausible) events, or some combination of historical episodes and hypothetical events (hybrid approach). Depending on the type of hypothetical events, a scenario based on such events may result in changes in risk factors that were not previously observed. In the supervisory scenarios for 2012 and 2013, the shocks were largely based on relative moves in asset prices and rates during the second half of 2008, but also included some additional considerations to factor in the widening of spreads for European sovereigns and financial companies based on actual observation during the latter part of 2011.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System.

**Ann Misback,**

*Secretary of the Board.*

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