DEPARTMENT OF TREASURY
Office of the Comptroller of the Currency
12 CFR Parts 3 and 6
[Docket No. OCC–2020–0013]
RIN 1557–AE85

FEDERAL RESERVE SYSTEM
12 CFR Parts 208 and 217
[Regulations H and Q; Docket No. R–1718]
RIN 7100–AF91

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Part 324
RIN 3064–AF44

Regulatory Capital Rule: Temporary Exclusion of U.S. Treasury Securities and Deposits at Federal Reserve Banks From the Supplementary Leverage Ratio for Depository Institutions

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

ACTION: Interim final rule and request for comment.

SUMMARY: In light of recent disruptions in economic conditions caused by the coronavirus disease 2019 and strains in U.S. financial markets, the OCC, the Board, and the FDIC (together, the agencies) are issuing an interim final rule that temporarily revises the supplementary leverage ratio calculation for depository institutions. Under the interim final rule, any depository institution subsidiary of a U.S. global systemically important bank holding company or any depository institution subject to Category II or Category III capital standards may elect to exclude temporarily U.S. Treasury securities and deposits at Federal Reserve Banks from the supplementary leverage ratio denominator.

Additionally, under this interim final rule, any depository institution making this election must request approval from its primary Federal banking regulator prior to making certain capital distributions so long as the exclusion is in effect. The interim final rule is effective as of the date of Federal Register publication and will remain in effect through March 31, 2021.

The agencies are adopting this interim final rule to allow depository institutions that elect to opt into this treatment additional flexibility to act as financial intermediaries during this period of financial disruption. The tier 1 leverage ratio is not affected by this interim final rule.

DATES:
Effective date: This rule is effective on June 1, 2020.

Comment date: Comments on the interim final rule must be received no later than July 16, 2020.

ADDRESSES:
OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible.

Please use the title “Regulatory Capital Rule: Temporary Exclusion of U.S. Treasury Securities and Deposits at Federal Reserve Banks from the Supplementary Leverage Ratio” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- Federal eRulemaking Portal—Regulations.gov Classic or Regulations.gov Beta: Go to https://www.regulations.gov/, enter “Docket ID OCC–2020–0013” in the Search Box and click “Search.” Click on “Comment Now” to submit public comments. For help with submitting effective comments please click on “View Commenter’s Checklist.” Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.

- Regulations.gov Classic: Go to https://beta.regulations.gov or click “Visit New Regulations.gov Site” from the Regulations.gov Classic homepage. Enter “Docket ID OCC–2020–0013” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking the “Comment” box on the top-left side of the screen. For help with submitting effective comments please click on “Commenter’s Checklist.” For assistance with the Regulations.gov Beta site, please call (877) 378–5457 (toll free) or (703) 454–9859 Monday–Friday, 9 a.m.–5 p.m. ET or email regulations@erulemakinghelpdesk.com.

- Email: regs.comments@occ.treas.gov.


All public comments will be made available on the Board’s website at http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter’s request. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684.

FDIC: You may submit comments, identified by RIN 3064–AF44, by any of the following methods:

- Email: Comments@fdic.gov. Include “RIN 3064–AF44” on the subject line of the message.
- Hand Delivery/Courier: Comments may be hand delivered to the guard station at the rear of the 550 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m. All comments received must include the agency name (FDIC) and RIN 3064–AF44 and will be posted without change to https://www.fdic.gov/regulations/laws/federal, including any personal information provided.


Users of Telecommunication Device for the Deaf (TDD) only, call (202) 263–4869. FDIC: Bobby R. Bean, Associate Director, bbean@fdic.gov; Benedetto Bosco, Chief, Capital Policy Section, bbosco@fdic.gov; Noah Cuttler, Senior Policy Analyst, ncuttler@fdic.gov; regulatorycapital@fdic.gov; Capital Markets Branch, Division of Risk Management Supervision, (202) 898–6888; or Michael Phillips, Counsel, mphillips@fdic.gov; Catherine Wood, Counsel, cwood@fdic.gov; Francis Kuo, Counsel, fkuo@fdic.gov; Supervision and Legislation Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (800) 925–4618.

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I. Background

The spread of the coronavirus disease 2019 (COVID–19) has significantly and adversely affected global financial markets, including depository institutions’ role as financial intermediaries. In particular,
disruptions in financial markets, and the resulting flight to liquid assets by market participants, have caused depository institutions’ balance sheets to expand to accommodate inflows of deposits. This balance sheet expansion has contributed to depository institutions making substantial deposits in their accounts at Federal Reserve Banks (deposits at Federal Reserve Banks). In addition, customer draws on credit lines and depository institutions’ holdings of significant amounts of U.S. Treasury securities (Treasuries) have contributed to balance sheet expansion. These trends are expected to continue temporarily while depository institutions and their customers respond to disruptions in the financial markets.

For a depository institution subsidiary of a U.S. global systemically important bank holding company (GSIB), or a depository institution subject to the Category II or Category III capital standards, the agencies’ regulatory capital rule so that the applicability of the eSLR in assets under custody, and depository institution standards, as adopted in 2014, applied to U.S. top-wholesale funding; or average off-balance sheet nonbank assets, average weighted short-term assets and at least $75 billion in average total consolidated assets or (2) at least $75 billion in total consolidated assets. Banking organizations that are subject to Category II or Category III capital standards include all on-balance sheet assets, including Treasuries and deposits at Federal Reserve Banks, in their total leverage exposure calculation.3

II. The Interim Final Rule

The ability of depository institutions to hold certain assets, most notably deposits at a Federal Reserve Bank and Treasuries, is essential to market functioning, financial intermediation, and funding market activity, particularly in periods of financial uncertainty. In response to volatility and market strains, the Federal Reserve has taken a number of actions to support market functioning and the flow of credit to the economy. The response to COVID–19 has notably increased the size of the Federal Reserve’s balance sheet and resulted in a large increase in the amount of reserves in the banking system. The agencies anticipate that the Federal Reserve’s balance sheet may continue to expand in the near term, as customer deposits continue to expand, and recently announced facilities to support the flow of credit to households and businesses begin or continue operations. In addition, market participants have liquidated a high volume of assets, and customers have drawn down credit lines and deposited the cash proceeds with depository institutions in recent weeks, further increasing the size of depository institutions’ balance sheets. Absent any adjustments to the supplementary leverage ratio, the resulting increase in the size of depository institutions’ balance sheets may cause a sudden and significant increase in the regulatory capital needed to meet a depository institution’s leverage ratio requirement.4

This is particularly the case for many of the depository institutions subject to the supplementary leverage ratio, which are significant participants in financial intermediation services, including as clearing banks for dealers in the open market operations of the Federal Open Market Committee and as major custodians of securities.

In order to facilitate depository institutions’ significant increase in reserve balances resulting from the Federal Reserve’s asset purchases and the establishment of various programs to support the flow of credit to the economy, as well as the need to continue to accept exceptionally high levels of customer deposits, the agencies are issuing this interim final rule to provide depository institutions subject to the supplementary leverage ratio (qualifying depository institutions) the ability to exclude temporarily Treasuries and deposits at Federal Reserve Banks from total leverage exposure through March 31, 2021. For example, depository institutions would be able to exclude temporarily on-balance sheet Treasuries that they hold, including Treasuries that they have borrowed and re-pledged in a repo-style transaction, provided such Treasuries are included in the depository institution’s total leverage exposure prior to the effect of the exclusion.5

Under the interim final rule, a depository institution that opts into this treatment (electing depository institution) would be required to obtain prior approval of distributions from its primary Federal banking regulator. An electing depository institution must notify its primary Federal banking regulator of its election within 30 days after the interim final rule is effective.6 The primary Federal banking regulator will consider a notice received from a qualifying depository institution more than 30 days after the effective date of the interim final rule on a case-by-case basis. The election will not affect the electing depository institution’s ability to pay distributions already declared or to declare distributions for payment in the second quarter of 2020. The prior

3 See 84 FR 59230 (Nov. 1, 2019). Banking organizations that are subject to Category II standards include those with (1) at least $700 billion in total consolidated assets or (2) at least $75 billion in cross-jurisdictional activity and at least $100 billion in total consolidated assets. Banking organizations that are subject to Category III standards include those with (1) at least $250 billion in average total consolidated assets or (2) at least $100 billion in average total consolidated assets and at least $75 billion in average total nonbank assets, average weighted short-term wholesale funding; or average off-balance sheet exposure. See 12 CFR 217.2.3

4 See 79 FR 24528 (May 1, 2014). The eSLR standards, as adopted in 2014, applied to U.S. top-tier bank holding companies with consolidated assets over $700 billion or more than $10 trillion in assets under custody, and depository institution subsidiaries of holding companies that meet those thresholds. The Board subsequently revised its capital rule so that the applicability of the eSLR standards is to bank holding companies identified as U.S. GSIBs and their depository institution subsidiaries. See 80 FR 49082 (August 14, 2015). The banking organizations currently subject to the eSLR standards are the same under either applicability standard.

5 The agencies recently issued a final rule, effective April 1, 2020, which implements section 402 of the Economic Relief and Consumer Protection Act (GRRCPA), 12 U.S.C. 1831o note, by amending the capital rule to allow a banking organization that qualifies as a custodial banking organization to exclude from total leverage exposure deposits at qualifying central banks, subject to limits (402 rule). 85 FR 4569 (January 27, 2020).

6 The Board recently issued an interim final rule to revise, on a temporary basis for bank holding companies, savings and loan holding companies, and U.S. intermediate holding companies of foreign banking organizations, the calculation of total leverage exposure, the denominator of the supplementary leverage ratio in the Board’s capital rule, to exclude Treasuries and deposits at Federal Reserve Banks. The exclusion will remain in effect until March 31, 2021. 85 FR 20578 (April 14, 2020).

7 This scope is consistent with the Board’s recent interim final rule to revise the supplementary leverage ratio. See supra note 4.

8 An FDIC supervised institution must provide this notice in writing to the appropriate FDIC regional director of the FDIC Division of Risk Management Supervision.
approval requirement applies to distributions to be paid beginning in the third quarter of 2020. The interim final rule will terminate after March 31, 2021.

For purposes of reporting the supplementary leverage ratio as of June 30, 2020, an electing depository institution may reflect the exclusion of Treasuries and deposits at Federal Reserve Banks from total leverage exposure as if this interim final rule had been in effect for the entire second quarter of 2020. Because the supplementary leverage ratio is calculated as an average over the quarter, this will have the effect of maximizing the effect of the exclusion starting in the second quarter of 2020. The agencies are not making similar adjustments to risk-based capital ratios because Treasuries and deposits at Federal Reserve Banks are risk-weighted at zero percent.

Under the interim final rule, beginning in the third quarter of 2020, an electing depository institution will be required to obtain approval from its primary Federal banking regulator before making a distribution or creating an obligation to make such a distribution so long as the temporary exclusion is in effect. The primary Federal banking regulator will endeavor to respond within 14 days to the request with an approval, disapproval, or request for additional information. This prior-approval requirement will help support the objective of the interim final rule to strengthen the ability of electing depository institutions to continue taking deposits, lending, and conducting other financial intermediation activities during this period of stress.

When evaluating any such request, the primary Federal banking regulator will consider all relevant factors, including whether any distribution would be contrary to safety and soundness and limitations on distributions in the existing rules applicable to the electing depository institution. Factors that the primary Federal banking regulator will take into account include the depository institution’s current earnings and forecasts, the nature, purpose, and extent of the request, and the particular circumstances giving rise to the request. For example, the primary Federal banking regulator may consider the expected future capital needs of the depository institution and its ability to meet capital requirements after the temporary relief provided under this interim final rule expires. The requirement that a depository institution request approval for distributions is not intended to prohibit electing depository institutions from paying dividends in all cases. Rather, the primary Federal banking regulator will evaluate each request to ensure that the electing depository institution will be able to continue supporting the economy by lending and accepting deposits consistent with the goal of this interim final rule.

The interim final rule revises the measure of total leverage exposure on a temporary basis for electing depository institutions for the limited purposes of the agencies’ capital rule. Depository institutions subject to supplementary leverage ratio requirements report their supplementary leverage ratios on the Consolidated Reports of Condition and Income (Call Reports), Schedule RC–R and Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101), Schedule A. The agencies expect the near future to make all necessary revisions to the Call Reports and the FFIEC 101, Schedule A to implement the interim final rule’s revisions to the supplementary leverage ratio for electing depository institutions and to require such institutions to disclose the election publicly. In addition, the interim final rule provides for the necessary modifications of the

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9 Holding companies use dividends from their subsidiaries for various purposes. For example, dividends to the holding company can support the efficient internal allocation of capital within a holding company, allowing excess capital from one subsidiary, such as the depository institution, to be redeployed to other subsidiaries. As such, an effective dividend strategy can both ensure the safety and soundness of the depository institution and promote the safety and soundness of the entire banking organization.

10 Depository institutions that are required to submit the OCC Reporting Form DF14A on April 6, 2021, or the FDIC DFAST–14A, have the option to include these changes in their company-run stress test results.

11 The instructions for Board’s FR Y–9C, Schedule HG–R, (Advanced approaches holding companies only: Supplementary leverage ratio) state that respondents must report the supplementary leverage ratio from FFIEC 101 Schedule A to FR Y–9C, therefore revisions to the FFIEC 101 regarding how to report the supplementary leverage ratio would flow through to the FR Y–9C. The Board plans to amend the instructions for FR Y–9C as necessary.

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12 This analysis takes into account the exclusion of qualifying central bank deposits for custodial banking organizations as provided under the capital rule. As of April 1, 2020, custodial banking organizations may exclude deposits with qualifying foreign central banks, in addition to the exclusions of deposits at Federal Reserve Banks provided...
this interim final rule, this temporary reduction in capital requirements is expected to increase leverage exposure capacity at depository institutions by approximately $1.2 trillion. In particular, the agencies expect that the increase in leverage exposure capacity will strengthen the depository institutions’ ability to continue to accept customer deposits, and therefore ensure that depository institutions remain able to fulfill this important function.

Depository institutions that opt into the temporary exclusion of Treasuries and deposits at Federal Reserve Banks from the denominator of the supplementary leverage ratio will likely incur some costs associated with making changes to internal systems or processes for managing supplementary leverage ratio compliance. However, these costs are likely to be very small.

Aside from increases in balance sheets caused by increases in customer deposits, the balance sheets of depository institutions also have increased as households and businesses draw down credit lines. If depository institutions become constrained by supplementary leverage ratio requirements, this could adversely affect their ability to intermediate in financial markets and hamper their ability to provide credit to households and businesses. Therefore, the temporary increase in leverage exposure capacity could have countercyclical benefits as it supports financial market liquidity and increases depository institutions’ lending capacities in a time of economic stress.

Although a temporary increase in leverage exposure capacity could lead to an increase in overall leverage in the banking system, the temporary exclusion of Treasuries and deposits at Federal Reserve Banks will help alleviate ongoing stresses on the financial system and the real economy arising from COVID–19. The agencies will closely monitor the balance sheets of electing depository institutions in the coming months while the exclusion is in effect with a particular view toward any resulting increase in risks in conjunction with this interim final rule.

IV. Technical Amendments

Finally, the agencies are making technical corrections and clarifications to the Prompt Corrective Action regulations. In their respective Prompt Corrective Action regulations, the agencies are correcting an unintentional omission of “Category III” to clarify that depository institutions subject to Category III standards must meet their minimum supplementary leverage ratio requirement of 3 percent in order to be considered “adequately capitalized.”

When the minimum supplementary leverage ratio requirement was initially added to the capital rule in 2013, the term “advanced approaches” banking organizations referred to all banking organizations that were subject to the supplementary leverage ratio. However, the tailoring rule that became effective on December 31, 2019, redefined “advanced approaches.” Under that rule, advanced approaches banking organizations now include a smaller group of banking organizations (i.e., banking organizations subject to Category I and II standards), while certain banking organizations are no longer defined as advanced approaches but remain subject to the supplementary leverage ratio requirements (i.e., banking organizations subject to Category III standards). The agencies did not intend to change the applicability of the minimum supplementary leverage ratio requirement in their respective Prompt Corrective Action regulations. Rather, the Prompt Corrective Action requirement should continue to apply to all banking organizations that are required to calculate the supplementary leverage ratio. Therefore, consistent with the capital rule, the agencies are now clarifying that the supplementary leverage ratio provisions in their respective Prompt Corrective Action regulations apply to all banking organizations subject to Category III standards, in addition to banking organizations subject to Category I and II standards.

V. Administrative Law Matters

A. Administrative Procedure Act

The agencies are issuing the interim final rule and its accompanying technical edits without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA). Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

The agencies believe that the public interest is best served by implementing the interim final rule immediately upon publication in the Federal Register. As discussed above, the spread of COVID–19 has slowed economic activity in many countries, including the United States. Specifically, the disruptions in financial markets have caused depository institutions to receive inflows of deposits—contributing to the increase of deposits at Federal Reserve Banks—and to hold significant amounts of Treasuries. Notably, these deposits at Federal Reserve Banks and holdings of Treasuries are essential to the normal functioning of the financial markets, especially in times of stress. If depository institutions cannot sustain the rapid increase in deposits at Federal Reserve Banks and holdings of Treasuries, the financial markets would experience a marked decline in financial intermediation and a further increase in general market volatility. Because the interim final rule will mitigate these potential negative effects, the agencies find that there is good cause consistent with the public interest to issue the rule without advance notice and comment. This final rule makes additional technical edits and corrections to more clearly articulate the scope of the supplementary leverage ratio requirements. Because the additional technical edits and corrections are not substantive, the agencies find there is good cause to issue the rule without advance notice and comment.

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause. Because the interim final rule will provide temporary capital relief, the interim final rule is exempt from the APA’s delayed effective date requirement. Additionally, the agencies find good cause to publish the technical edits and corrections, which clarify the scope of the supplementary

13 12 CFR 6.4(b) (OCC); 12 CFR 208.43(b) (Board); 12 CFR 324.403(b) (FDIC).
14 78 FR 62208 (Oct. 11, 2013).
17 5 U.S.C. 553(b)(B); 553(d)(3).
18 5 U.S.C. 553(d).
leverage ratio for purposes of the Prompt Corrective Action regulations, with an immediate effective date for the same reasons set forth above under the discussion of section 553(b)(B) of the APA.

While the agencies believe that there is good cause to issue this interim final rule without advance notice and comment and with an immediate effective date, the agencies are interested in the views of the public and request comment on all aspects of the interim final rule.

B. Congressional Review Act

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a “major” rule.20 If a rule is deemed a “major” rule by the Office of Management and Budget (OMB), the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.21

The Congressional Review Act defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States–based enterprises to compete with foreign-based enterprises in domestic and export markets.22

For the same reasons set forth above, the agencies are adopting the interim final rule without the delayed effective date generally prescribed under the Congressional Review Act. The delayed effective date required by the Congressional Review Act does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.23 In light of current market uncertainty, the agencies believe that delaying the effective date of the rule would be contrary to the public interest.

As required by the Congressional Review Act, the agencies will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. The interim final rule affects the agencies’ current information collections for the Call Reports (OCC OMB No. 1557–0081; Board OMB No. 7100–0036; and FDIC OMB No. 3064–0052) and the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101; OCC OMB No. 1557–0239; Board OMB No. 7100–0319; and FDIC OMB No. 3064–0159). The revisions to the Call Reports and the FFIEC 101 will be addressed in a separate Federal Register notice.

The interim final rule also introduces a new notice opt-in requirement and a requirement for prior approval for distributions, which would affect the agencies’ capital rule information collections. The agencies believe that these new requirements will amount to 12 burden hours per respondent (two responses per respondent at six hours per response).

OCC:
OMB Control No.: 1557–0318.
Respondents for Interim Final Rule: 21.
Responses per Respondent: 2.
Burden per Response: 6 hours.
Burden for Interim Final Rule: 126 hours.
Total Burden for Collection: 66,333 hours.
FDIC:
Title of Information Collection: Regulatory Capital Rules.
OMB Control No.: 3064–0153.
Respondents for Interim Final Rule: 7.
Responses per Respondent: 2.
Burden per Response: 6 hours.
Burden for Interim Final Rule: 84 hours.
Total Burden for Collection: 128,140 burden hours.

The agencies request comment on:

- Whether the collections of information are necessary for the proper performance of the agencies’ functions, including whether the information has practical utility;
- The accuracy of the agencies’ estimates of the burden of the information collections, including the validity of the methodology and assumptions used; and
- Ways to enhance the quality, utility, and clarity of the information to be collected.
- Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

The Board has temporarily revised the Financial Statements for Holding Companies (FR Y–9C; OMB No. 7100–0128) and the Recordkeeping and Disclosure Requirements Associated with Regulation Q (FR Q; OMB No. 7100–0313) information collections to accurately reflect certain aspects of this and other interim final rules. On June 15, 1984, OMB delegated to the Board authority under the PRA to temporarily approve a revision to a collection of information without providing opportunity for public comment if the Board determines that a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board’s ability to perform its statutory obligation. The Board’s delegated authority requires that the Board, after temporarily approving a collection, solicit public comment to extend information collections for a period not to exceed three years. Therefore, the Board is inviting comment to extend the FR Q information collection for three years, with the revisions discussed below. The Board is not inviting comment on the FR Y–9 information collection for the reasons discussed below.

The Board invites public comment on the FR Q information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments must be submitted on or before July 31, 2020. Comments are invited on the following:

- Whether the collections of information are necessary for the proper performance of the Board’s functions, including whether the information has practical utility;
- The accuracy of the Board’s estimate of the burden of the information collections, including the validity of the methodology and assumptions used; and
- Ways to enhance the quality, utility, and clarity of the information to be collected;
- Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology;
e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the collections.

Final Approval Under OMB Delegated Authority of the Temporary Revision of the Following Information Collection

Report Title: Financial Statements for Holding Companies.


OMB control number: 7100–0128.

Effective Date: March 31, 2020.

Frequency: Quarterly, semiannually, and annually.

Respondents: Bank holding companies, savings and loan holding companies,24 securities holding companies, and U.S. intermediate holding companies (collectively, HCs).

Estimated number of respondents: FR Y–9C (non-advanced approaches CBLR HCs with less than $5 billion in total assets): 7; FR Y–9C (non-advanced approaches CBLR HCs with $5 billion or more in total assets): 35; FR Y–9C (non-advanced approaches, non CBLR, HCs with less than $5 billion in total assets): 84; FR Y–9C (non-advanced approaches, non CBLR, HCs, with $5 billion or more in total assets): 154; FR Y–9C (advanced approaches HCs): 19; FR Y–9LP: 434; FR Y–9SP: 3,960; FR Y–9ES: 83; FR Y–9CS: 236.

Estimated average hours per response:

Reporting

FR Y–9C (non-advanced approaches CBLR HCs with less than $5 billion in total assets): 29.14 hours; FR Y–9C (non-advanced approaches CBLR HCs with $5 billion or more in total assets): 756 hours; FR Y–9C (advanced approaches HCs): 76 hours; FR Y–9LP: 1,736 hours; FR Y–9SP: 3,960 hours; FR Y–9ES: 42 hours; FR Y–9CS: 472 hours.

Recordkeeping

FR Y–9C (non-advanced approaches HCs with less than $5 billion in total assets): 620 hours; FR Y–9C (non-advanced approaches HCs with $5 billion or more in total assets): 756 hours; FR Y–9C (advanced approaches HCs): 76 hours; FR Y–9LP: 1,736 hours; FR Y–9SP: 3,960 hours; FR Y–9ES: 42 hours; FR Y–9CS: 472 hours.

General description of report: The FR Y–9C consists of standardized financial statements similar to the Call Reports filed by commercial banks.25 The FR Y–9C collects consolidated data from HCs and is filed quarterly by top-tier HCs with total consolidated assets of $3 billion or more.26

The FR Y–9LP, which collects parent company only financial data, must be submitted by each HC that files the FR Y–9C, as well as by each of its subsidiary HCs.27 The report consists of standardized financial statements. The FR Y–9SP is a parent company only financial statement filed semiannually by HCs with total consolidated assets of less than $3 billion. In a banking organization with total consolidated assets of less than $3 billion that has tiered HCs, each HC in the organization must submit, or have the top-tier HC submit on its behalf, a separate FR Y–9SP. This report is designed to obtain basic balance sheet and income data for the parent company, and data on its intangible assets and intercompany transactions. The FR Y–9ES is filed annually by each employee stock ownership plan (ESOP) that is also an HC. The report collects financial data on the ESOP’s benefit plan activities. The FR Y–9C series of reports consists of four schedules: A Statement of Changes in Net Assets Available for Benefits, a Statement of Net Assets Available for Benefits, Memoranda, and Notes to the Financial Statements.

The FR Y–9CS is a free-form supplemental report that the Board may utilize to collect critical additional data deemed to be needed in an expedited manner from HCs on a voluntary basis. The data are used to assess and monitor emerging issues related to HCs, and the report is intended to supplement the other FR Y–9 reports. The data items included on the FR Y–9CS may change as needed.

Legal authorization and confidentiality: The Board has the authority to impose the reporting and recordkeeping requirements associated with the Y–9 family of reports on bank holding companies ("BHCS") pursuant to section 5 of the Bank Holding Company Act ("BHC Act"). (12 U.S.C. 1844); on savings and loan holding companies pursuant to section 10 of the Home Owners’ Loan Act, (12 U.S.C. 1467a(2) (3)); on U.S. intermediate holding companies ("U.S. IHCS") pursuant to section 5 of the BHC Act, (12 U.S.C. 1844), as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). (12 U.S.C. 511(a)(1) and 5365); and on securities holding companies pursuant to section 618 of the Dodd-Frank Act. (12 U.S.C. 1850a(c)(1)(A)). The FR Y–9 series of reports, and the recordkeeping requirements set forth in the respective instructions to each report, are mandatory, except for the FR Y–9CS, which is voluntary. With respect to the FR Y–9C, Schedule HI’s memorandum item 7(a), Schedule HC–P’s item 7(a), and Schedule HC–P’s item 7(b) are considered confidential commercial and financial information under exemption 4 of the Freedom of Information Act ("FOIA"). (5 U.S.C. 552(b)(4)), as is Schedule HI’s memorandum item 2.b. for both the FR Y–9C and FR Y–9SP reports.

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24 An SLHC must file one or more of the FR Y–9 series of reports unless it is: (1) A grandfathered unitary SLHC with primarily commercial assets and thrifts that make up less than 5 percent of its consolidated assets; or (2) A SLHC that primarily holds insurance-related assets and does not otherwise submit financial reports with the SEC pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

25 The Call Reports consist of the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only and Total Assets Less Than $5 Billion (FFIEC 051), the Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices (FFIEC 043) and the Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices (FFIEC 034).

26 Under certain circumstances described in the FR Y–9C’s General Instructions, HCs with assets under $3 billion may be required to file the FR Y–9C.

27 A top-tier HC may submit a separate FR Y–9LP on behalf of each of its lower-tier HCs.
Aside from the data items described above, the remaining data items on the FR Y–9 reports are generally not accorded confidential treatment. As provided in the Board’s Rules Regarding Availability of Information (12 CFR part 261), however, a respondent may request confidential treatment for any data items the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate, and will inform the respondent if the request for confidential treatment has been denied.

To the extent that the instructions, to the FR Y–9C, FR Y–9LP, FR Y–0SP, and FR Y–9ES reports, each respectively direct a financial institution to retain the workpapers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or supervision of the financial institution. Accordingly, such information may be considered confidential pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). In addition, the financial institution’s workpapers and related materials may also be protected by exemption 4 of the FOIA, to the extent such financial information is treated as confidential by the respondent (5 U.S.C. 552(b)(4)).

Current Actions: On April 1, 2020, the Board announced that it had temporarily revised the instructions to the FR Y–9C to accurately reflect the calculation of the supplementary leverage ratio pursuant to the Board’s interim final rule (the “holding company SLR IFR”) that revised, on a temporary basis for bank holding companies, savings and loan holding companies, and U.S. intermediate holding companies of foreign banking organizations, the calculation of total leverage exposure, the denominator of the supplementary leverage ratio in the Board’s capital rule, to exclude the on-balance sheet amounts of Treasuries and funds on deposit at Federal Reserve Banks.28 This temporary revision to the FR Y–9C was necessary because holding companies were previously instructed to report their supplementary leverage ratio on the FR Y–9C using the data reported on the FFIEC 101, as they did previously. Therefore, the temporary revisions to the FR Y–9C to account for the holding company SLR IFR, announced by the Board on April 1, 2020, are no longer necessary, and the Board has retracted these revisions. The Board has determined that this revision to the FR Y–9C must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection of information, as delaying the revisions would result in the collection of inaccurate information, and would interfere with the Board’s ability to perform its statutory duties. Because these revisions result completely revert the temporary revisions made by the Board to the FR Y–9C in connection with the holding company SLR IFR, the resulting instructions regarding the supplementary leverage ratio are identical to those adopted following notice and comment. Therefore, the Board does not intend to request further comment in order to retain these instructions.

Final Approval Under OMB Delegated Authority of the Temporary Revision of, and Solicitation of Comment To Extend for Three Years, With Revision, of the Following Information Collections

Title of Information Collection: Recordkeeping and Disclosure Requirements Associated with Regulation Q.

Applicable forms number: FR Q.

OMB control number: 7100–0313.

Frequency: Quarterly, annual.

Affected Public: Businesses or other for-profit.

Respondents: State member banks (SMBs), bank holding companies (BHCs), U.S. intermediate holding companies (IHCs), savings and loan holding companies (SLHCs), and global systemically important bank holding companies (GSIBs).

Legal authorization and confidentiality: This information collection is authorized by section 38(o) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(c)), section 908 of the International Lending Supervision Act of 1983 (12 U.S.C. 3907(a)(1)), section 9(6) of the Federal Reserve Act (12 U.S.C. 324), and section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)). The obligation to respond to this information collection is mandatory. If a respondent considers the information to be trade secrets and/ or privileged such information could be withheld from the public under the authority of the Freedom of Information Act (5 U.S.C. 552(b)(4)). Additionally, to the extent that such information may be contained in an examination report such information could also be withheld from the public (5 U.S.C. 552(b)(8)).

Estimated number of respondents: 1,431 (of which 19 are advanced approaches institutions).

Estimated average hours per response:

Minimum Capital Ratios

Recordkeeping (Ongoing)—16.

Standardized Approach

Recordkeeping (Initial setup)—122.

Recordkeeping (Ongoing)—20.

Disclosure (Initial setup)—226.25.

Disclosure (Ongoing quarterly)—131.25.

Advanced Approach

Recordkeeping (Initial setup)—460.

Recordkeeping (Ongoing)—540.77.

Recordkeeping (Ongoing quarterly)—20.

Disclosure (Initial setup)—328.

Disclosure (Ongoing)—5.78.

Disclosure (Ongoing quarterly)—41.

Disclosure (Table 13 quarterly)—5.

Risk-based Capital Surcharge for GSIBs

Recordkeeping (Ongoing)—0.5.

Reporting (Twice)—6.

Total estimated annual burden: 1,136 hours initial setup, 80,245 hours for ongoing.

Current actions: The Board has temporarily revised the FR Q information collection to reflect a revision to the disclosure requirements contained in the Board’s Regulation Q. Generally, § 217.173 of the Board’s Regulation Q requires each advanced approaches Board-regulated institution and a Category III Board-regulated institution that is required to publicly disclose its supplementary leverage ratio pursuant to § 217.172(d) of Regulation Q to make certain disclosures, which are listed in Table 13 of § 217.173. Pursuant to this interim final rule, a Board-regulated institution that is required to make such disclosures will be required to publicly disclose its supplementary leverage ratio pursuant to § 217.172(d) of Regulation Q to make certain disclosures, which are listed in Table 13 of § 217.173. The interim final rule also introduces a new notice opt-in requirement and a requirement for prior approval for distributions, which would affect the agencies’ capital rule information collections. The agencies believe that these new requirements will amount to 12 burden hours per respondent (two responses per respondent at six hours per response).

Additionally, the Board has temporarily revised the FR Q information collection to include the notification that an electing depository

28 85 FR 20578 (April 14, 2020).
The Board has determined that these revisions to the FR Q described above must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection of information, as delaying the revisions would result in the collection of inaccurate information, and would interfere with the Board’s ability to perform its statutory duties.

The Board also invites comment on a proposal to extend the FR Y-Q for three years, with the revision described above. This revision would be effective for FR Q through March 31, 2021, the date after which the exclusions in this interim final rule will no longer be effective.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(B) of the APA, the agencies have determined for good cause that general notice and comment is unnecessary, and therefore the agencies are not issuing a notice of proposed rulemaking. Accordingly, the agencies have concluded that the RFA’s requirements relating to initial and final regulatory flexibility analysis do not apply.

Nevertheless, the agencies seek comment on whether there are other requirements on IDIs that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published. See 2 U.S.C. 1532(a).

Therefore, because the OCC has found good cause to dispense with notice and comment for this interim final rule, the OCC has not prepared an economic analysis of the rule under the UMRA.

List of Subjects

12 CFR Part 3
Administrative practice and procedure, Capital, Federal savings associations, National banks, Risk.

12 CFR Part 6
Federal savings associations, National banks, Prompt corrective action.

12 CFR Part 208
Accounting, Agriculture, Banks, banking, Confidential business information, Consumer protection, Crime, Currency, Federal Reserve System, Flood insurance, Insurance, Investments, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 217
Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 324
Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

Authority and Issuance

For the reasons stated in the joint preamble, the Office of the Comptroller of the Currency amends part 3 of chapter I of title 12, Code of Federal Regulations as follows:

PART 3—CAPITAL ADEQUACY STANDARDS

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


2. Section 3.304 is added to read as follows:
§ 3.304 Temporary exclusions from total leverage exposure.

(a) In general. Subject to paragraphs (b) through (g) of this section, and notwithstanding any other requirement in this part, a national bank or Federal savings association, when calculating on-balance sheet assets as of each day of a reporting quarter for purposes of determining the national bank’s or Federal savings association’s total leverage exposure under § 3.10(c)(4), may exclude the balance sheet carrying value of the following items:

(1) U.S. Treasury securities; and
(2) Funds on deposit at a Federal Reserve Bank.

(b) Opt-in period. Before applying the relief provided in paragraph (a) of this section, a national bank or Federal savings association must first notify the OCC before July 1, 2020.

(c) Calculation of relief. When calculating on-balance sheet assets as of each day of a reporting quarter, the relief provided in paragraph (a) of this section applies from the beginning of the reporting quarter in which the national bank or Federal savings association filed an opt-in notice through the termination date specified in paragraph (d) of this section.

(d) Termination of exclusions. This section shall cease to be effective after the reporting period that ends March 31, 2021.

(e) Custody bank. A custody bank must reduce the amount in § 3.10(c)(4)(ii)(J)(1) (to no less than zero) by any amount excluded under paragraph (a)(2) of this section.

(f) Disclosure. Notwithstanding Table 13 to § 3.173, a national bank or Federal savings association that is required to make the disclosures pursuant to § 3.173 must exclude the items excluded pursuant to paragraph (a) of this section from Table 13 to § 3.173.

(g) OCC approval for distributions. During the calendar quarter beginning on July 1, 2020, and until March 31, 2021, no national bank or Federal savings association that has opted in to the relief provided under paragraph (a) of this section may make a distribution, or create an obligation to make such a distribution, without prior OCC approval. When reviewing a request under this paragraph (g), the OCC will consider all relevant factors, including whether the distribution would be contrary to the safety and soundness of the national bank or Federal savings association; the nature, purpose, and extent of the request; and the particular circumstances giving rise to the request.

PART 6—PROMPT CORRECTIVE ACTION

§ 3.64 Capital measures and capital categories.

(b) * * * * * (2) * * * *

(iv) * * * *

(B) With respect to an advanced approaches bank or bank that is a Category III Board-regulated institution (as defined in § 217.2 of this chapter), the bank has a supplementary leverage ratio of 3.0 percent or greater; and

* * * * * * * * * (3) * * * *

(iv) * * * *

(B) With respect to an advanced approaches bank or bank that is a Category III Board-regulated institution (as defined in § 217.2 of this chapter), the bank has a supplementary leverage ratio of less than 3.0 percent.

Authority and Issuance

For the reasons stated in the joint preamble, the Board of Governors of the Federal Reserve System amends 12 CFR chapter II as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

5. The authority citation for part 208 continues to read as follows:


6. Section 208.43(b)(2)(ii)(B) and (b)(3)(iv)(B) are revised to read as follows:

§ 208.43 Capital measures and capital categories.

(h) * * * *

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

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


8. Revise § 217.303 to read as follows:

§ 217.303 Temporary exclusions from total leverage exposure.

(a) In general. Subject to paragraphs (b) through (g) of this section and notwithstanding any other requirement in this part, when calculating on-balance sheet assets as of each day of a reporting quarter for purposes of determining the Board-regulated institution’s total leverage exposure under § 217.10(c)(4), a Board-regulated institution that is a depository institution holding company or a U.S. intermediate holding company must, and a Board-regulated institution that is a state member bank may, exclude the balance sheet carrying value of the following items:

(1) U.S. Treasury securities; and

(2) Funds on deposit at a Federal Reserve Bank.

(b) Opt-in period. Before applying the relief provided in paragraph (a) of this section, a state member bank must first notify the Board before July 1, 2020.

(c) Calculation of relief. When calculating on-balance sheet assets as of each day of a reporting quarter, the relief provided in paragraph (a) of this section applies from the beginning of the reporting quarter in which the state member bank filed an opt-in notice.
through the termination date specified in paragraph (d) of this section.

(d) Termination of exclusions. This section shall cease to be effective after the reporting period that ends March 31, 2021.

(e) Custodial banking organizations. A custodial banking organization must reduce the amount in § 217.10(c)(4)[ii][i] to (f) (to no less than zero) by any amount excluded under paragraph (a)(2) of this section.

(f) Disclosure. Notwithstanding Table 13 to § 217.173, a Board-regulated institution that is required to make the disclosures pursuant to § 217.173 must exclude the items excluded pursuant to paragraph (a) of this section from Table 13 to § 217.173.

(g) Board approval for distributions. During the calendar quarter beginning on July 1, 2020, and until March 31, 2021, no state member bank that has opted in to the relief provided under paragraph (a) of this section may make a distribution, or create an obligation to make such a distribution, without prior Board approval. When reviewing a request under this paragraph (g), the Board will consider all relevant factors, including whether the distribution would be contrary to the safety and soundness of the state member bank; the nature, purpose, and extent of the request; and the particular circumstances giving rise to the request.

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the joint preamble, the Federal Deposit Insurance Corporation amends chapter III of title 12 of the Code of Federal Regulations as follows:

PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

9. The authority citation for part 324 continues to read as follows:


§ 324.304 [Redesignated as § 324.305]

10. Redesignate § 324.304 as § 324.305.

11. A new § 324.304 is added to read as follows:

§ 324.304 Temporary exclusions from total leverage exposure.

(a) In general. Subject to paragraphs (b) through (g) of this section, and notwithstanding any other requirement in this part, an FDIC-supervised institution, when calculating on-balance sheet assets as of each day of a reporting quarter for purposes of determining the FDIC-supervised institution’s total leverage exposure under § 324.10(c)(4), may exclude the balance sheet carrying value of the following items:

1. U.S. Treasury securities; and
2. Funds on deposit at a Federal Reserve Bank.

(b) Opt-in period. Before applying the relief provided in paragraph (a) of this section, an FDIC-supervised institution must first notify the appropriate regional director of the FDIC Division of Risk Management Supervision before July 1, 2020.

(c) Calculation of relief. When calculating on-balance sheet assets as of each day of a reporting quarter, the relief provided in paragraph (a) of this section applies from the beginning of the reporting quarter in which the FDIC-supervised institution filed an opt-in notice through the termination date specified in paragraph (d) of this section.

(d) Termination of exclusions. This section shall cease to be effective after the reporting period that ends March 31, 2021.

(e) Custody bank. A custody bank must reduce the amount in § 324.10(c)(4)[ii][i] to (f) (to no less than zero) by any amount excluded under paragraph (a)(2) of this section.

(f) Disclosure. Notwithstanding Table 13 to § 324.173, an FDIC-supervised institution that is required to make the disclosures pursuant to § 324.173 must exclude the items excluded pursuant to paragraph (a) of this section from Table 13 to § 324.173.

(g) FDIC approval for distributions. During the calendar quarter beginning on July 1, 2020, and until March 31, 2021, no FDIC-supervised institution that has opted in to the relief provided under paragraph (a) of this section may make a distribution, or create an obligation to make such a distribution, without prior FDIC approval. When reviewing a request under this paragraph (g), the FDIC will consider all relevant factors, including whether the distribution would be contrary to the safety and soundness of the FDIC-supervised institution; the nature, purpose, and extent of the request; and the particular circumstances giving rise to the request.

Subpart H—Prompt Corrective Action

12. Section 324.403(b)(2)(vi) and (b)(3)(v) are revised to read as follows:

§ 324.403 Capital measures and capital categories definitions.

* * * * *

(b) * * *

(2) * * *

(vi) Beginning January 1, 2018, an advanced approaches or Category III FDIC-supervised institution will be deemed to be “adequately capitalized” if it satisfies paragraphs (b)(2) through (v) of this section and has a supplementary leverage ratio of 3.0 percent or greater, as calculated in accordance with § 324.10.

(3) * * *