

documents on the same topic and will generally limit such multiple issuances going forward.

(vi) The OCC will continue efforts to make the role of supervisory guidance clear in communications to examiners and to supervised financial institutions and encourage supervised institutions with questions about this statement or any applicable supervisory guidance to discuss the questions with their appropriate agency contact.

**Blake J. Paulson,**

*Acting Comptroller of the Currency.*

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## FEDERAL RESERVE SYSTEM

### 12 CFR Parts 217, 225, 238, and 252

RIN 7100-AF95

#### Amendments to Capital Planning and Stress Testing Requirements for Large Bank Holding Companies, Intermediate Holding Companies and Savings and Loan Holding Companies

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Technical correction.

**SUMMARY:** This document corrects an error in amendatory instruction 2 affecting Part 217 of the Board's Regulation Q published in the **Federal Register** on February 3, 2021.

**DATES:** Effective April 5, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Asad Kudiya, Senior Counsel, (202) 475-6358 or Jonah Kind, Counsel, (202) 452-2045. You may also contact any of the named individuals in the final rule document 86 FR 7927 (February 3, 2021).

**SUPPLEMENTARY INFORMATION:**

*Correction*

In final rule FR Doc. 2021-02182, published on February 3, 2021, on page 7938, in the third column, make the following corrections to instruction 2, amending § 217.11:

**§ 217.11 [Corrected]**

- 1. In instruction 2.b., the text “Revising the paragraph (c) subject heading and paragraphs (c)(1)(i) and (ii), (c)(1)(iii) introductory text, and (c)(1)(iv) introductory text, (c)(1)(v) introductory text, and (c)(vi) introductory text; and” is corrected to read “Revising the paragraph (c) heading and paragraphs (c)(1)(i) and (ii), (c)(1)(iii) introductory text, (c)(1)(iv) introductory text, (c)(1)(v) introductory text, and (c)(1)(vi); and”
- 2. In instruction 2.c., the text “Correctly designating the second

occurrence of paragraph (c)(1)(v) as paragraph (c)(1)(vii); and” is corrected to read “Correctly designating the second occurrence of paragraph (c)(1)(v) as paragraph (c)(1)(vii) and revising it; and”

■ 3. In instruction 2.d., the text “Revising paragraph (c)(2).” is corrected to read “Revising paragraph (c)(2) heading, (c)(2)(i) and (c)(2)(ii) introductory text”.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2021-02911 Filed 2-11-21; 8:45 am]

**BILLING CODE P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1074

[Docket No. CFPB-2020-0033]

RIN 3710-AB02

#### Role of Supervisory Guidance

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is adopting a final rule that codifies the Interagency Statement Clarifying the Role of Supervisory Guidance, issued by the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and the Bureau (collectively, the agencies) on September 11, 2018 (2018 Statement). By codifying the 2018 Statement, with amendments, the final rule confirms that the Bureau will continue to follow and respect the limits of administrative law in carrying out its supervisory responsibilities. The 2018 Statement reiterated well-established law by stating that, unlike a law or regulation, supervisory guidance does not have the force and effect of law. As such, supervisory guidance does not create binding legal obligations for the public. Because it is incorporated into the final rule, the 2018 Statement, as amended, is binding on the Bureau. The final rule adopts the rule as proposed without substantive change.

**DATES:** This final rule is effective on March 15, 2021.

**FOR FURTHER INFORMATION CONTACT:** Bradley Lipton or Christopher Shelton, Senior Counsels, Legal Division, (202) 435-7700. If you require this document in an alternative electronic format,

please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Bureau recognizes the important distinction between issuances that serve to implement acts of Congress (known as “regulations” or legislative rules”) and non-binding supervisory guidance documents.<sup>1</sup> Regulations create binding legal obligations. Supervisory guidance is issued by an agency to “advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power” and does not create binding legal obligations.<sup>2</sup>

In recognition of the important distinction between rules and guidance, on September 11, 2018, the agencies issued the Interagency Statement Clarifying the Role of Supervisory Guidance (2018 Statement) to explain the role of supervisory guidance and describe the agencies’ approach to supervisory guidance.<sup>3</sup> As noted in the 2018 Statement, the agencies issue various types of supervisory guidance to their respective supervised institutions, including, but not limited to, interagency statements, advisories, bulletins, policy statements, questions and answers, and frequently asked questions. Supervisory guidance outlines the agencies’ supervisory expectations or priorities and articulates the agencies’ general views regarding practices for a given subject area. Supervisory guidance often provides examples of practices that mitigate risks, or that the agencies generally consider to be consistent with safety-and-soundness standards or other applicable laws and regulations, including those designed to protect consumers.<sup>4</sup> The agencies noted in the 2018 Statement that supervised institutions at times request supervisory guidance and that guidance is important to provide clarity

<sup>1</sup> Regulations are commonly referred to as legislative rules because regulations have the “force and effect of law.” *Perez v. Mortgage Bankers Association*, 575 U.S. 92, 96 (2015).

<sup>2</sup> See *Chrysler v. Brown*, 441 U.S. 281, 302 (1979) (quoting the Attorney General’s Manual on the Administrative Procedure Act at 30 n.3 (1947) (Attorney General’s Manual) and discussing the distinctions between regulations and general statements of policy, of which supervisory guidance is one form).

<sup>3</sup> See <https://www.consumerfinance.gov/about-us/newsroom/agencies-issue-statement-reaffirming-role-supervisory-guidance/>.

<sup>4</sup> While supervisory guidance offers guidance to the public on the agencies’ approach to supervision under statutes and regulations and safe and sound practices, the issuance of guidance is discretionary and is not a prerequisite to an agency’s exercise of its statutory and regulatory authorities. This point reflects the fact that statutes and legislative rules, not statements of policy, set legal requirements.