

directly to the Docket without going through www.regulations.gov, your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: November 24, 2021.

Steven Neugeboren,

Associate General Counsel.

[FR Doc. 2021-26085 Filed 11-30-21; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Complex Institution Liquidity Monitoring Report (FR 2052a; OMB No. 7100-0361).

DATES: The revisions will be effective May 1, 2022, for banking organizations subject to Category I standards and October 1, 2022, for banking organizations subject to Category II-IV standards.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on

the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection

Report title: Complex Institution Liquidity Monitoring Report.

Agency form number: FR 2052a.

OMB control number: 7100-0361.

Effective date: May 1, 2022, for banking organizations subject to Category I standards and October 1, 2022, for banking organizations subject to Category II-IV standards.

Frequency: Monthly, daily.

Respondents: Certain U.S. bank holding companies (BHCs), top-tier savings and loan holding companies (SLHCs), U.S. global systemically important BHCs, and foreign banking organizations (FBOs).

Estimated number of respondents: Monthly (ongoing): 26, monthly (one-time): 26; daily (ongoing): 15, daily (one-time): 15.

Estimated average hours per response: Monthly (ongoing): 121, monthly (one-time): 140; daily (ongoing): 221, daily (one-time): 238.

Estimated annual burden hours: Monthly (ongoing): 37,752; monthly (one-time): 3,640; daily (ongoing): 828,750; daily (one-time): 3,570.

General description of report: The FR 2052a collects quantitative information on select assets, liabilities, funding activities, and contingent liabilities of certain large banking organizations with \$100 billion or more in total consolidated assets supervised by the Board on a consolidated basis. The Board uses this information to monitor the liquidity profile of these banking organizations.

Legal authorization and confidentiality: The information collection under the FR 2052a is authorized by section 5 of the Bank Holding Company Act (BHCA),¹ section 8 of the International Banking Act (IBA),² section 10 of the Home Owners' Loan Act (HOLA),³ and section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd Frank Act).⁴ Section 5(c) of the BHCA authorizes the Board to require BHCs to submit reports to the Board regarding their financial condition. Section 8(a) of

the IBA subjects FBOs to the provisions of the BHCA. Section 10 of the HOLA authorizes the Board to require reports and examine SLHCs. Section 165 of the Dodd Frank Act requires the Board to establish prudential standards for certain BHCs and FBOs; these standards include liquidity requirements.

The FR 2052a is mandatory. The information collected on 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 Additionally, to the extent a respondent submits nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent, in connection with the FR 2052a, the respondent may request confidential treatment pursuant to exemption 4 of the FOIA.⁶

Current actions: On March 29, 2021, the Board published a notice in the **Federal Register** (86 FR 16365) requesting public comment for 60 days on the extension, with revision, of the Complex Institution Liquidity Monitoring Report. The Board proposed revisions to the reporting form and instructions of the FR 2052a to accurately reflect the net stable funding ratio (NSFR) final rule⁷ and to capture other data elements necessary to monitor banking organizations' liquidity positions and compliance with Liquidity Risk Measurement (LRM) Standards. The comment period for this notice expired on May 28, 2021. The Board received six comments: Three from trade associations, one from a group of banking organizations, and two from individual banking organizations. Board staff also conducted two follow-up calls, one with a trade association and another with the trade association along with banking organizations, to better understand their concerns and recommendations.

Detailed Discussion of Public Comments

Comments Related to Effective Date

Several commenters requested an extension of the proposed effective date of July 1, 2021. Some of these commenters suggested a phased-in approach that would require the reporting of FR 2052a data elements related to the NSFR rule earlier than FR 2052a data elements not related to the NSFR rule.⁸ Other commenters

⁵ 5 U.S.C. 552(b)(8).

⁶ 5 U.S.C. 552(b)(4).

⁷ 86 FR 9120 (February 11, 2021).

⁸ For example, commenters suggested April 1, 2022, for revisions to the FR 2052a related to the

¹ 12 U.S.C. 1844.

² 12 U.S.C. 3106.

³ 12 U.S.C. 1467a.

⁴ 12 U.S.C. 5365.

requested a later effective date for banking organizations that are not subject to the NSFR rule. The Board is finalizing the effective date of the revised FR 2052a as May 1, 2022, for banking organizations subject to Category I standards and October 1, 2022, for banking organizations subject to Category II–IV standards. These effective dates are tailored to the risks of large banking organizations, with an earlier effective date applying to the largest and most complex banking organizations and a later effective date applying to banking organizations with less risk. In addition, these effective dates will provide banking organizations with sufficient time to update their internal reporting processes and systems and facilitate the monitoring and accurate collection of FR 2052a data elements by the Board.

Comments Related to Submission Timing

Commenters raised concerns that the different submission cycles for various proposed FR 2052a data elements would increase burden and cause confusion, as banking organizations would be required to submit different FR 2052a data elements either daily, monthly, or quarterly and with different time lags (for example, T+2 business days, T+10 calendar days, or T+15 calendar days) based on criteria specified in the FR 2052a. One commenter also argued that the FR 2052a data elements required to be submitted on a monthly and quarterly submission cycle should be reported based on business days rather than calendar days.

The Board is finalizing the submission timing for the FR 2052a data elements as proposed. The timeliness of data is critical to effective liquidity monitoring and basing the submission of monthly and quarterly FR 2052a data elements on a business day cadence would impede the Board's ability to effectively monitor the liquidity risks of banking organizations. Moreover, the approach the Board is taking is consistent with the current requirement for monthly filers of the FR 2052a to report data on a calendar day cadence. In addition, the Board has the authority to require banking organizations to report FR 2052a data elements more frequently or with less delay when necessary (for example, during periods of market stress). Banking organizations that build reporting processes based on a rigid and lengthy data production cycle may struggle to provide data more frequently or with less delay in these

scenarios. Thus, to mitigate burden, the final FR 2052a instructions clarify that data elements that are reported based on calendar days are due on the next good business day if the calendar day submission deadline falls on a weekend or holiday.

Additionally, commenters requested clarification regarding (i) how the Board plans to use the FR 2052a to monitor NSFR rule compliance, (ii) which FR 2052a data elements should be used to fulfill NSFR rule public disclosure requirements, and (iii) the reporting approach for FR 2052a data elements on a monthly or quarterly submission cycle. Specifically, commenters asked whether banking organizations that submit FR 2052a data elements daily would need to submit static monthly FR 2052a data elements each business day using data from the previous month end, prior to the required monthly refresh of these data elements. Commenters also asked whether banking organizations should update previously submitted balances of daily FR 2052a data elements with the same as-of date when filing their monthly FR 2052a data elements, and whether these monthly FR 2052a data elements should be based on the final or estimated month-end balance sheet. Commenters further noted that some required FR 2052a data elements may not be available at the submission frequency required by the proposed FR 2052a. In particular, commenters observed that the risk weights that are needed for reporting certain FR 2052a data elements are generally reported on a quarterly basis for purposes of existing regulatory reports.

The Board will use the FR 2052a to calculate a banking organization's NSFR in accordance with Appendix VIII⁹ and may conduct sensitivity analyses on an ongoing basis to estimate the banking organization's compliance with the NSFR rule requirements. Data collected via the FR 2052a also inform the Board's supervisory assessment of a banking organization's liquidity position and funding stability. Although there may be challenges associated with providing certain FR 2052a data elements daily, a banking organization must follow the FR 2052a and NSFR rule public disclosure requirements to ensure supervisors have sufficient information to monitor and assess funding risks and to ensure the accuracy of information disclosed to the public, where applicable.

Further, the NSFR rule public disclosure requirements, which are

based on daily averages, are independent of and not modified by the FR 2052a. The Board is allowing banking organizations to report certain FR 2052a data elements less frequently than daily, as banking organizations have less time to compile, validate, and submit these data elements compared to the NSFR rule public disclosures, which are reported publicly on a semi-annual basis and disclosed with a longer delay. Nonetheless, banking organizations can choose to align the submission cycles of FR 2052a data elements by submitting the T+10 or T+15 FR 2052a data elements prior to their submission deadlines, provided that they have the capability to accurately produce the data.

With respect to the FR 2052a data elements that are submitted less frequently (that is, monthly for daily filers or quarterly for certain monthly filers) and with a T+15 time lag, the Board is requiring banking organizations to report the information as of the end of the submission cycle, and not for each business day. The Board is not requiring banking organizations to re-submit FR 2052a data elements that must be submitted daily or with less delay in tandem with FR 2052a data elements that are submitted less frequently and with longer delay. However, the Board is requiring banking organizations to re-submit previously submitted FR 2052a data elements that contain material errors. In addition, the Board is requiring banking organizations to report FR 2052a data elements in accordance with the submission cycles required by the FR 2052a and NSFR rule public disclosure requirements, even if related data are currently reported less frequently and with less granularity on other regulatory reports (for example, the risk weights of a banking organization's exposures are reported quarterly). In the case of risk weights that are needed for daily or monthly FR 2052a data elements, the Board does not anticipate material variation on an intra-quarter basis since these are standardized parameters.

Comments Related to Balance Sheet Reconciliation and Validation Checks

Some commenters expressed concern with the lack of alignment between the reporting of FR 2052a data elements and the balance sheet under U.S. generally accepted accounting principles (U.S. GAAP), and asserted that the proposed FR 2052a approach (that is, through FR 2052a data element field "S.B.6: Carrying Value Adjustment") to align the two would be overly burdensome. Commenters noted that banking organizations would incur significant

⁹ NSFR rule and October 1, 2022, for all other revisions.

⁹ Appendix VIII maps FR 2052a data elements to the NSFR rule requirements.

additional burden due to the complexity and granularity required to tie FR 2052a data elements to the U.S. GAAP balance sheet. One commenter proposed an alternative approach that would add a field for carrying value for each table in the FR 2052a.

Relatedly, commenters requested guidance on how banking organizations are expected to reconcile their U.S. GAAP balance sheet with the FR 2052a. These commenters requested a comprehensive list of FR 2052a data elements and how those elements map to the U.S. GAAP balance sheet. Commenters also requested clarification regarding how banking organizations should report reconciliations between settlement date positions, on which the FR 2052a is primarily based, and trade date positions, on which parts of the U.S. GAAP balance sheet are based. In addition, to assist with reconciling the FR 2052a with U.S. GAAP balance sheet reporting, commenters recommended that the Board provide a list of validation checks and checks with other regulatory reports to ensure the accuracy and reasonableness of data submissions. One commenter also requested that the Board provide a new list of edit checks.

The Board is finalizing the FR 2052a data elements designed to align the FR 2052a with a U.S. GAAP balance sheet (that is, through FR 2052a data element field “S.B.6: Carrying Value Adjustment”) as proposed. The Board clarifies that the FR 2052a does not require a banking organization to report carrying value adjustments at the transaction level. Instead, these carrying value adjustments may be aggregated and reported at a level sufficient for the Board to monitor and assess the adequacy of a banking organization’s asset liquidity and funding stability. Hence, banking organizations may generally apply these carrying value adjustments at the FR 2052a product¹⁰ and counterparty level. However, banking organizations that are subject to the NSFR rule must apply these carrying value adjustments at a level sufficient to align these adjustments with the applicable NSFR rule provisions, as mapped in Appendix VIII. Banking organizations should adopt reasonable assumptions and methodologies to facilitate alignment of these adjustments with the associated underlying FR 2052a data elements. The Board is not adopting the approach recommended by a commenter to add a carrying value

field to each applicable FR 2052a table, as this approach would be more burdensome than the approach the Board is adopting (for example, by explicitly requiring banking organizations to report carrying values at a transaction level).

Further, the FR 2052a does not require banking organizations to wholly reconcile FR 2052a data elements to the details reported on a U.S. GAAP balance sheet. Rather, the FR 2052a requires banking organizations to report data that conceptually cover the entirety of their balance sheet exposures and certain off-balance sheet exposures in a manner sufficient to measure funding stability and asset liquidity. Banking organizations subject to the NSFR rule should refer to Appendix VIII, which reflects the level at which the Board requires the FR 2052a to align with a U.S. GAAP balance sheet and includes methods to reconcile between trade date and settlement date accounting. Board staff will coordinate with each banking organization not subject to the NSFR rule to determine the appropriate level to reconcile the FR 2052a reporting requirements with U.S. GAAP balance sheet reporting requirements, commensurate with each banking organization’s size, complexity, and risk profile.

Additionally, FR 2052a validation checks have historically been implemented following the finalization of changes to the FR 2052a, as developing new validation checks benefits from interactions with banking organizations on technical issues. Moreover, the Board expects banking organizations to independently develop appropriate validation checks and controls to ensure the quality and integrity of submitted data.

Comments on Data Fields Unrelated to LRM Standards

One commenter argued that certain FR 2052a data fields that are unrelated to liquidity risk management should be removed, including the “global systematically important Bank (G-SIB)” field, “Fixed Income Clearing Corporation (FICC)” settlement specification, “Collateral Level” field, identification of total loss absorbing capacity (TLAC) instruments in the “Loss Absorbency” field, “Accounting Designation” field, and “Business Line” field. Similarly, commenters asserted that the Board should not adopt the proposed expansions of certain FR 2052a data fields, such as the counterparty and collateral class data fields, as these expansions are not necessary to implement the NSFR and LCR rules.

The Board is finalizing these aspects of the FR 2052a as proposed. The Board uses the FR 2052a to collect data in support of its supervisory mandates, including monitoring the microprudential and financial stability risks associated with large banking organizations’ asset and liability profiles. These new FR 2052a data fields play an important role in the Board’s monitoring of these risks.

For example, the “G-SIB” field, which identifies data elements where the underlying counterparty is a G-SIB, captures necessary information for monitoring potential interdependencies between G-SIBs that could be a channel for the transmission of systemic funding risks. It also provides visibility into interdependencies with non-U.S. G-SIBs, including exposures in the U.S. capital markets that are booked through non-U.S. affiliates or are otherwise less transparent to the Board. The Board notes that there is significant precedent for the collection of counterparty data in regulatory reports and through supervisory monitoring.

The “FICC” settlement specification identifies repurchase and reverse repurchase transactions (repo-style transactions) cleared and novated to the FICC. These transactions represent a material and critical segment of the repo-style transactions market, and accordingly the FICC settlement specification provides substantial insight into banking organization-specific and banking system-wide liquidity risks in this market segment. Understanding a banking organization’s repo-style transactions cleared through FICC could have significant implications for the Board’s supervisory assessments of the banking organization’s strategies to obtain liquidity from high-quality liquid assets (HQLA) and any associated financial stability implications. In addition, an understanding of how a banking organization’s repo-style transactions are settled, including through FICC, would help the Board to assess the risks of a banking organization’s repo-style transactions and access to funding markets. Further, reporting a banking organization’s relationship with a central counterparty such as FICC by name is less sensitive compared to reporting a banking organization’s relationship with a commercial counterparty by name. Finally, introducing the FICC settlement specification addresses ambiguities in the current FR 2052a instructions regarding the classification of repo-style transactions that may be cleared and net settled with FICC, but may individually

¹⁰ The FR 2052a uses product definitions to provide guidance on the classification of inflows, outflows, and supplemental items. An example of a product is “I.A.1: Unencumbered Assets” under the category “I.A: Inflows-Assets.”

originate through both bilateral and triparty settlement mechanisms.

The “Collateral Level” field is used to differentiate the derivative asset and liability values and the balances of variation margin posted and received for all derivative contracts. This field is required for banking organizations to determine the extent to which variation margin posted and received is eligible for netting under the NSFR rule. This field is referenced in Appendix VIII, which maps the FR 2052a to the applicable NSFR rule provisions.

The information collected in the “Loss Absorbency” field is required to distinguish between tier 2 capital instruments and other long-term liabilities. The TLAC indicator is a natural extension of the “Loss Absorbency” field and distinguishes TLAC instruments from other long-term liabilities. This indicator also provides insight into the composition of a banking organization’s capital markets debt issuances that is critical to monitoring the execution of its funding strategy. Moreover, TLAC instruments are typically issued with early call options that are not deemed to be exercised when determining the maturity of these instruments for purposes of the LCR and NSFR rules. These call options could introduce sudden and unexpected liquidity needs during a period of stress. An indicator that clearly identifies TLAC instruments enables supervisory monitoring of risks associated with these potential liquidity needs, as the call dates of TLAC instruments are relatively standardized.

The “Accounting Designation” field differentiates a banking organization’s unencumbered inventory based on its designated treatment for accounting purposes. The data collected in the “Accounting Designation” field provide information about potential constraints to a banking organization’s liquidity buffer management strategies. Classification of assets as Held-to-Maturity has significant implications on a banking organization’s possible channels for obtaining liquidity from those assets. This field also facilitates reconciliation to other regulatory reports.

The “Business Line” field designates the business line responsible for or associated with all applicable exposures reported on the FR 2052a. The information collected in the “Business Line” field helps the Board in conducting reviews of banking organizations’ internal liquidity stress tests (ILSTs) required under the Board’s Regulation YY and Regulation LL, since a key factor in a banking organization’s own assessment of its liquidity risk for

certain transactions can be the line of business in which these transactions are managed. Appropriately, this field only applies to the largest and most complex banking organizations, where distinguishing transactions by business lines is particularly important given the breadth and complexity of their operations. This information also enhances supervisory coordination with banking organizations, as it will provide a mechanism to align certain data collected in regulatory reports with the banking organization’s ILST results and other internal management information systems. Further, the current FR 2052a instructions already capture limited business line information by requiring a banking organization to differentiate between exposures that are associated with its prime brokerage operations versus other exposures. Therefore, the “Business Line” field is an expansion of the current reporting requirement for banking organizations subject to Category I standards and not a new reporting requirement. Moreover, the Board is providing relief to banking organizations subject to Category II–IV standards by removing the reporting requirement to designate transactions associated with prime brokerage business lines. Additionally, banking organizations should not incur significant burden in implementing this field, as the “Business Line” field only requires banking organizations to designate the existing business lines in which a particular transaction is managed and does not create new regulatory categories.

The Board is adding more granular counterparty types to the counterparty class data field because the current definitions do not provide for mutually exclusive categories of financial counterparties. These changes fully align with the financial counterparty types specified in Regulation WW,¹¹ and do not create counterparty types beyond these existing defined terms. More granular knowledge of the types of financial counterparties facing a banking organization would assist the Board in understanding a banking organization’s liquidity risks, as different types of financial counterparties may exhibit meaningfully different behavioral responses to a liquidity stress event or have different implications on a banking organization’s decision-making around franchise and reputational risks.

The expansion of the collateral class data field, which identifies the types of collateral for relevant FR 2052a data elements, recognizes that the liquidity

characteristics of exchange traded funds (ETFs) and mutual funds can be different from the individual securities or assets that underlie the ETF or mutual fund. ETFs can also play a significant role in the funding strategies of banking organizations that engage in dealing activities, such as providing financing to and acting as an intermediary for the trading activities of their clients. Additionally, the Board is expanding the collateral class data field to include equity investments in subsidiaries because information about these equity investments is required to construct an accurate view of a banking organization’s balance sheet and can be necessary to calculate the NSFR.

Comments Related to Banking Organizations Not Subject to the NSFR Rule

Several commenters argued that certain banking organizations, including FBOs, should not be required to report FR 2052a data elements that are related to the NSFR rule (NSFR-related FR 2052a data elements) for a material entity if the material entity is not subject to the NSFR rule. Some commenters argued that FBOs should not be required to report NSFR-related FR 2052a data elements for material entities that are part of its combined U.S. operations but not subject to the NSFR rule (such as a U.S. branch that is not required to be held under a FBO’s U.S. intermediate holding company (IHC)). In this case, commenters argued that FBOs should report the NSFR-related FR 2052a data elements only for their IHCs. Additionally, one commenter requested the Board to differentiate between the category of standards applicable to an FBO’s IHC and its combined U.S. operations under Regulation YY to avoid misinterpretation of requirements for reporting NSFR-related FR 2052a data elements and to align the FR 2052a instructions with the tailoring final rules.

The Board is clarifying that certain banking organizations, including FBOs, may provide certain NSFR-related FR 2052a data elements (for example, FR 2052a data element field “S.L.10: Net Stable Funding Ratio”) exclusively at the level of the material entity that is subject to the NSFR rule. Other NSFR-related FR 2052a data elements (for example, FR 2052a data element field “S.B.1 Regulatory Capital Element”) would be required to be reported by a banking organization for material entities not subject to the NSFR rule to assist the Board in assessing the banking organization’s funding risks under a range of market conditions, as an adequate assessment requires an

¹¹ See 12 CFR 249.3.

understanding of these risks at a legal entity level. However, after considering the commenter's request to differentiate on the basis of the category of standards applicable to an FBO's IHC and its combined U.S. operations under Regulation YY, the Board is amending the FR 2052a instructions to base the reporting of certain NSFR-related FR 2052a data elements on the scope of application of the Board's LRM Standards. Therefore, an FBO's requirements with respect to these NSFR-related FR 2052a data elements would be based on its IHC's category of standards under Regulation YY, where applicable. As an example, an FBO would not need to provide the NSFR-related FR 2052a data elements in the "S.L: Supplemental-Liquidity Risk Measurement (LRM)" table for its U.S. branches.

Comments Related To Leveraging Existing Regulatory Reports

One commenter recommended that the Board should leverage existing regulatory reports, when possible, to collect NSFR-related FR 2052a data elements. This commenter pointed out several comparable data elements in the FR 2052a and FR Y-9C reports as examples. The Board has leveraged existing data from other regulatory reports to the extent possible, but the data provided in other regulatory reports do not consistently align with the FR 2052a data elements and would not provide the same granularity as the NSFR-related FR 2052a data elements. Although the FR Y-9C data elements and related FR 2052a data elements cited by the commenter share some characteristics, the FR 2052a data elements have unique features and greater granularity requirements to provide the Board with the necessary insight into a banking organization's balance sheet funding risks.

Other Comments Received

Commenters also raised a number of requests for technical clarifications and recommendations pertaining to the FR 2052a instructions, as listed below.

One commenter asked whether resubmissions of a FR 2052a report that was filed prior to the effective date of the revised FR 2052a would be based on FR 2052a requirements as of the filing date, or whether such resubmissions would need to incorporate changes made in the revised FR 2052a. The Board is clarifying that resubmissions of the FR 2052a must be based on the FR 2052a requirements as of the original filing date. However, the Board will only require banking organizations to resubmit data using the FR 2052a

requirements as of a filing date prior to the effective date of the revised FR 2052a for up to 180 days after this effective date.

The same commenter requested clarification regarding how banking organizations should map the proposed FR 2052a maturity time buckets to the NSFR rule's standardized maturity buckets used for the application of certain NSFR parameters. The Board is amending the proposed FR 2052a maturity time buckets to match the NSFR rule's standardized maturity buckets. The commenter also asked how the proposed FR 2052a effective maturity buckets are to be applied to tables other than the "I.S: Inflows-Secured" table. Effective maturity buckets must be used to designate the period of encumbrance for assets that have been pledged to secure other assets. These assets include unsecured loans reported in the "I.U: Inflows-Unsecured" table or securities reported in the "I.A: Inflows-Assets" table. The commenter also asked how banking organizations should treat products that have both evergreen and extendable features (for example, a contract with an option to extend its maturity that also requires a minimum number of days' notice before the contract can mature). Banking organizations should use the "Evergreen" maturity optionality designation for products with both evergreen and extendable features. The commenter also asked for an example of an asset that would fall within the "Not Accelerated" maturity optionality designation. Examples include where a banking organization holds an option to accelerate the maturity of an asset, or where the banking organization holds an option to accelerate the maturity of a liability with an original maturity of more than one year but the option is not exercisable for the first six months.

The same commenter also asked the Board to clarify the distinction between the "IG-2-Q" collateral class, which refers to investment grade municipal obligations, and the "IG-2" collateral class, which refers to investment grade U.S. municipal general obligations. The Board is clarifying that the "IG-2" collateral class includes only general obligations and the "IG-8" collateral class includes all other municipal obligations. The "IG-2-Q" collateral class includes investment grade municipal obligations that are liquid and readily marketable and that qualify as level 2B HQLA.

One commenter asked the Board to allow banking organizations to provide general descriptions of the "Other" FR 2052a data element fields monthly as opposed to daily. After considering the

commenter's request regarding the frequency of reporting general descriptions of the "Other" FR 2052a data element fields, the Board is amending the instructions to require monthly reporting of these general descriptions.

The commenter also asked for examples of assets that should be reported in the FR 2052a data element field "I.A.7: Encumbered Assets." Examples of assets that should be reported in the FR 2052a data element field "I.A.7: Encumbered Assets" include, without limitation, securities owned by a banking organization that are pledged to a repo-style transaction, loan, or derivative transaction. The commenter further requested clarification on the types of assets in the "S.DC: Supplemental-Derivatives & Collateral" table that require the reporting of an encumbrance type. The Board is clarifying that the encumbrance type field is only required in circumstances where assets held or received by the banking organization have been encumbered to other transactions or exposures. On this basis, the FR 2052a data element fields "S.DC.1: Gross Derivative Asset Values," "S.DC.7: Initial Margin Received," and "S.DC.10: Variation Margin Received" can require the assignment of an encumbrance type.

The commenter asked whether the collateral class designation of "Y-4," which refers to equity investment in affiliates, for the FR 2052a data element field "O.O.19: Interest & Dividends Payable" would apply to only inter-affiliate dividends or all dividends. The Board is clarifying that the designation applies to all dividends. A question was also asked regarding how banking organizations should report the maturity amount of a secured financing transaction where they have elected the fair value option for accounting purposes. The Board is clarifying that the maturity amount must reflect the cash settlement obligation of the secured financing transaction. Banking organizations must also use the FR 2052a data element field "S.B.6: Carrying Value Adjustment" to align the maturity amount with the balance sheet carrying value based on the fair value option election.

The commenter also asked questions related to a banking organization's capacity to engage in collateral substitution for purposes of the FR 2052a data element field "S.DC.21: Other Collateral Substitution Capacity." The commenter asked whether banking organizations could include encumbered assets that would become unencumbered after the first good

business day. In response, the Board is clarifying that banking organizations may disclose additional collateral substitution capacity based on assets that will become unencumbered following the first good business day if they specify the exact date upon which the assets will become unencumbered. The commenter also asked whether banking organizations could disclose capacity based on the ability to borrow assets from affiliates if the standalone reporting entity did not have assets to substitute. The Board is clarifying that a standalone reporting entity may disclose capacity to the extent that the assets are held by the standalone reporting entity or its subsidiaries. Therefore, while a consolidated standalone reporting entity may consider the ability to transfer assets among its consolidated subsidiaries for purposes of the “S.DC.21: Other Collateral Substitution Capacity” FR 2052a data element field, it should not consider the ability to transfer assets between affiliates that are not its consolidated subsidiaries. The commenter also asked for an example on quantifying collateral substitution capacity, taking into account the LCR rule haircuts between assets received and assets pledged. As an example, if a banking organization has posted \$25 of U.S. Treasury securities and could substitute those U.S. Treasury securities with sufficient non-HQLA to fully collateralize the liability to which the U.S. Treasury securities were pledged, the reportable value would be \$25. If, alternatively, the liability would require \$30 of level 2B HQLA, the capacity would be calculated as: $\$25 \text{ (U.S. Treasury securities)} * 100\% - \$30 \text{ (level 2B HQLA)} * 50\% = \$25 - \$15 = \10 .

The commenter further requested clarification on whether banking organizations could exclude from their required stable funding (RSF) amount¹² subsidiary liquidity that cannot be transferred under the LCR rule. The Board is clarifying that banking organizations cannot exclude such subsidiary liquidity. As the FR 2052a data element field “S.L.1: Subsidiary Liquidity That Cannot Be Transferred” refers to the LCR rule, it does not factor into NSFR calculations.

In addition, the commenter asked whether non-cash items should be included in the FR 2052a data element fields “S.B.2: Other Liabilities” and “S.B.4: Other Assets.” The Board is clarifying that these two FR 2052a data element fields should reflect all other

assets and liabilities that are (i) not otherwise reported in other FR 2052a data elements, (ii) reportable under U.S. GAAP, and (iii) within the scope of the NSFR rule, regardless of whether these assets or liabilities are cash or non-cash items.

The commenter also requested clarification with respect to the FR 2052a data element field “S.B.5: Counterparty Netting.” Specifically, the commenter asked whether banking organizations should follow U.S. GAAP or the NSFR rule. The Board is clarifying that banking organizations are required to follow the NSFR rule. The Board believes that requiring banking organizations to follow the NSFR rule when filing the FR 2052a is appropriate, as the Board will use information collected through the FR 2052a to monitor compliance with the NSFR rule in addition to evaluating the liquidity and funding risks of banking organizations. The commenter also asked whether amounts reported under the FR 2052a data element field “S.B.5: Counterparty Netting” could be excluded from the FR 2052a data element field “S.B.6: Carrying Value Adjustment.” The Board is clarifying that the FR 2052a data element fields “S.B.5: Counterparty Netting” and “S.B.6: Carrying Value Adjustment” are mutually exclusive; therefore, amounts reported under the FR 2052a data element field “S.B.5: Counterparty Netting” must be excluded from amounts reported under FR 2052a data element field “S.B.6: Carrying Value Adjustment.”

The commenter also asked the Board to confirm that currency is not a required field in “Appendix I: FR 2052a Data Format, Tables, and Fields.” The Board is confirming that currency is a required field. The currency and converted fields are not displayed for each value field in this appendix to simplify its visual representation of the FR 2052a data structure.

The Board is also revising the FR 2052a instructions to correct typographical errors, align the FR 2052a with previously issued FAQs, or remove certain FR 2052a data elements as the Board no longer considers those items to be critical to monitoring the liquidity and funding risks of banking organizations and across the entire banking system by:

- Removing interest receivable from the products reportable in the “I.U: Inflows-Unsecured” table;
- Changing “I.O.6: Interest and Dividends Receivable” so that the counterparty to be reported is the payor of the interest;

- Changing the definition of an operational escrow account, found in “O.D.7: Operational Escrow Accounts,” to match the definition provided in Question 5 of the FR 2052a FAQ Volume 12;

- Updating the “other cash” reference in “I.A.3: Unrestricted Reserve Balances” to refer to “Currency and Coin;”

- Removing “I.U.8: Unposted Debits;” and

- Completing the instructions to “S.L.9: Additional Funding Requirement for Off-Balance Sheet Rehypothecated Assets” by adding the phrase “has been rehypothecated.”

A commenter requested clarification with respect to the reporting of certain secured financing transactions, including the process of netting in cases where the collateral value exceeds the netted on-balance sheet cash leg and the collateral potentially consists of more than one instrument. Relatedly, the commenter asked how banking organizations should allocate the RSF factors¹³ to a netting set of secured financing transactions where the netting set includes reverse repurchase transactions and the collateral received consists of assets that have different RSF factors. Additionally, the commenter asked the Board to confirm a “look-through” approach for the reporting of an asset exchange transaction where the asset sourced through the asset exchange transaction is used as initial margin in a derivatives transaction. Under the commenter’s proposed “look-through” approach, a banking organization would not be required to reflect an RSF requirement for both the asset pledged in the asset exchange transaction and the initial margin. The commenter also asked how the FR 2052a encumbrance type designation should apply to off-balance sheet collateral that is not used in a transaction that results in an NSFR liability.¹⁴

The Board notes that the FR 2052a provides clear instructions regarding the reporting of secured financing transactions, asset exchange transactions, and the encumbrance type designation. Additionally, the information collected through the FR 2052a regarding these types of transactions and the encumbrance type designation provides the Board with important insights into banking organization-specific and banking

¹³ RSF factors are assigned in 12 CFR 249.106.

¹⁴ An NSFR liability generally includes liabilities that are reported on a banking organization’s balance sheet that are not excluded from the banking organization’s regulatory capital. See 12 CFR 249.3.

¹² See 12 CFR 249.105 for the calculation of the RSF amount.

system-wide liquidity and funding risks. Therefore, these aspects of the FR 2052a instructions remain unchanged. Additionally, the commenter's requests for clarification involve, in part, interpretations of the NSFR rule. The Board typically responds to interpretative questions concerning its regulations in another forum and questions regarding interpretations of the NSFR rule should be emailed to LCR-NSFR.INFO@occ.treas.gov.

The Board received several comments related to the mapping appendices associated with the FR 2052a. The Board will respond to these inquiries in a different forum, as the mapping appendices do not represent FR 2052a instructions.

Board of Governors of the Federal Reserve System, November 24, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021-26103 Filed 11-30-21; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval South Carolina Medicaid State Plan Amendment (SPA) 19-0004-A

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice of hearing; reconsideration of disapproval.

SUMMARY: This notice announces an administrative hearing to be held on January 12, 2022, at the Department of Health and Human Services, Division of Medicaid Field Operations, South, Centers for Medicare & Medicaid Services, Division of Medicaid and Children's Health Operations, 61 Forsyth St., Suite 4T20, Atlanta, Georgia 30303-8909 to reconsider CMS' decision to disapprove South Carolina's Medicaid SPA 19-0004-A.

DATES:

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by December 16, 2021.

FOR FURTHER INFORMATION CONTACT: Benjamin R. Cohen, Presiding Officer, CMS, 7500 Security Blvd., MS B1-01-31, Baltimore MD 21244-1850, *Telephone:* (410) 786-3169.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS's decision to

disapprove South Carolina's Medicaid state plan amendment (SPA) 19-0004-A, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on June 28, 2019 and disapproved on May 21, 2021. This SPA requested CMS approval to update annual supplemental teaching physician (STP) payment program using the Average Commercial Rate (ACR) methodology effective April 1, 2019. This SPA included Greenville Memorial Hospital, and Palmetto Health, Richland/USC.

The issues to be considered at the hearing are whether South Carolina SPA 19-0004-A is inconsistent with the requirements of:

- Section 1902(a)(2) of the Social Security Act (the Act), providing that the state plan must assure adequate funding for the non-federal share of expenditures from state or local sources, such that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan.

- Sections 1903(a) and 1905(b) of the Act, providing that states receive a statutorily determined Federal Medicaid Assistance Percentage (FMAP) for allowable state expenditures on medical assistance.

- Section 1903(w)(1)(A)(i)(I) of the Act, providing that, notwithstanding the previous provisions of section 1903, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to section 1903(w)) shall be reduced, inter alia, by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year from provider-related donations other than bona fide provider-related donations, as defined in section 1903(w)(2)(B).

- Section 1903(w)(2)(A) of the Act, providing that, in section 1903(w), except as provided in section 1903(w)(6), the term "provider-related donation" means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by— (i) a health care provider (as defined in section 1903(w)(7)(B)), (ii) an entity related to a health care provider (as defined in section 1903(w)(7)(C)), or (iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of section 1903(a).

- Section 1903(w)(2)(B) of the Act, providing that, for purposes of section

1903(w)(1)(A)(i)(I), the term "bona fide provider-related donation" means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under title XIX to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

- Section 1903(w)(6)(A) of the Act, providing that, notwithstanding the provisions of section 1903(w), the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State university teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under title XIX, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under section 1903.

- 42 CFR 433.54(b), (c)(2), and (c)(3), providing that provider-related donations will be determined to have no direct or indirect relationship to Medicaid payments if those donations are not returned to the individual provider, the provider class, or related entity under a hold harmless provision or practice, as described in 42 CFR 433.54(c). A hold harmless practice exists if, inter alia, all or any portion of the Medicaid payment to the donor, provider class, or related entity, varies based only on the amount of the donation, including where Medicaid payment is conditional on receipt of the donation; or if the State (or other unit of government) receiving the donation provides for any direct or indirect payment, offset, or waiver such that the provision of that payment, offset, or waiver directly or indirectly guarantees to return any portion of the donation to the provider (or other parties responsible for the donation).

Section 1116 of the Act and federal regulations at 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish in the **Federal Register** a copy of the notice to a state Medicaid agency that informs the