

## Federal Reserve System

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total capital ratio requirement under § 217.10(a), respectively, the Board-regulated institution's advanced approaches capital conservation buffer is zero.

(4) *Leverage buffer.* (i) The leverage buffer is composed solely of tier 1 capital.

(ii) A global systemically important BHC has a leverage buffer that is equal to the global systemically important

BHC's supplementary leverage ratio minus 3 percent, calculated as of the last day of the previous calendar quarter.

(iii) Notwithstanding paragraph (c)(4)(ii) of this section, if the global systemically important BHC's supplementary leverage ratio is less than or equal to 3 percent, the global systemically important BHC's leverage buffer is zero.

TABLE 2 TO § 217.11(c)(4)(iii)—CALCULATION OF MAXIMUM PAYOUT RATIO

Capital buffer <sup>1</sup>	Payout ratio
Greater than the Board-regulated institution's buffer requirement <sup>2</sup>	No payout ratio limitation applies.
Less than or equal to 100 percent of the Board-regulated institution's buffer requirement, and greater than 75 percent of the Board-regulated institution's buffer requirement.	60 percent.
Less than or equal to 75 percent of the Board-regulated institution's buffer requirement, and greater than 50 percent of the bank holding company's buffer requirement.	40 percent.
Less than or equal to 50 percent of the Board-regulated institution's buffer requirement, and greater than 25 percent of the Board-regulated institution's buffer requirement.	20 percent.
Less than or equal to 25 percent of the Board-regulated institution's buffer requirement	0 percent.

<sup>1</sup> A Board-regulated institution's "capital buffer" means each of, as applicable, its standardized approach capital conservation buffer, advanced approaches capital conservation buffer, and leverage buffer.

<sup>2</sup> A Board-regulated institution's "buffer requirement" means each of, as applicable, its standardized approach capital conservation buffer requirement, advanced approaches capital conservation buffer requirement, and leverage buffer requirement.

(d) *GSIB surcharge.* A global systemically important BHC must use its GSIB surcharge calculated in accordance with subpart H of this part for purposes of determining its maximum payout ratio under Table 2 to § 217.11(c)(4)(iii).

[Reg. Q, 85 FR 15596, Mar. 18, 2020, as amended at 86 FR 3762, Jan. 15, 2021; 86 FR 7938, Feb. 3, 2021; 86 FR 9261, Feb. 12, 2021]

### § 217.12 Community bank leverage ratio framework.

(a) *Community bank leverage ratio framework.* (1) Notwithstanding any other provision in this part, a qualifying community banking organization that has made an election to use the community bank leverage ratio framework under paragraph (a)(3) of this section shall be considered to have met the minimum capital requirements under § 217.10, the capital ratio requirements for the well capitalized capital category under § 208.43(b)(1) of this chapter, and any other capital or leverage requirements to which the qualifying community banking organization is subject, if it has a leverage ratio greater than 9 percent.

(2) For purposes of this section, a qualifying community banking organi-

zation means a Board-regulated institution that is not an advanced approaches Board-regulated institution and that satisfies all of the following criteria:

(i) Has a leverage ratio of greater than 9 percent;

(ii) Has total consolidated assets of less than \$10 billion, calculated in accordance with the reporting instructions to the Call Report or to Form FR Y-9C, as applicable, as of the end of the most recent calendar quarter;

(iii) Has off-balance sheet exposures of 25 percent or less of its total consolidated assets as of the end of the most recent calendar quarter, calculated as the sum of the notional amounts of the exposures listed in paragraphs (a)(2)(iii)(A) through (I) of this section, divided by total consolidated assets, each as of the end of the most recent calendar quarter:

(A) The unused portion of commitments (except for unconditionally cancellable commitments);

(B) Self-liquidating, trade-related contingent items that arise from the movement of goods;

(C) Transaction-related contingent items, including performance bonds,

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bid bonds, warranties, and performance standby letters of credit;

(D) Sold credit protection through guarantees and credit derivatives;

(E) Credit-enhancing representations and warranties;

(F) Securities lent and borrowed, calculated in accordance with the reporting instructions to the Call Report or to Form FR Y-9C, as applicable;

(G) Financial standby letters of credit;

(H) Forward agreements that are not derivative contracts; and

(I) Off-balance sheet securitization exposures; and

(iv) Has total trading assets and trading liabilities, calculated in accordance with the reporting instructions to the Call Report or to Form FR Y-9C, as applicable, of 5 percent or less of the Board-regulated institution's total consolidated assets, each as of the end of the most recent calendar quarter.

(3)(i) A qualifying community banking organization may elect to use the community bank leverage ratio framework if it makes an opt-in election under this paragraph (a)(3).

(ii) For purposes of this paragraph (a)(3), a qualifying community banking organization makes an election to use the community bank leverage ratio framework by completing the applicable reporting requirements of its Call Report or of its Form FR Y-9C, as applicable.

(iii)(A) A qualifying community banking organization that has elected to use the community bank leverage ratio framework may opt out of the community bank leverage ratio framework by completing the applicable risk-based and leverage ratio reporting requirements necessary to demonstrate compliance with §217.10(a)(1) in its Call Report or its Form FR Y-9C, as applicable, or by otherwise providing the information to the Board.

(B) A qualifying community banking organization that opts out of the community bank leverage ratio framework pursuant to paragraph (a)(3)(iii)(A) of this section must comply with §217.10(a)(1) immediately.

(4) *Temporary relief for 2020 and 2021.*

(i) Except as provided in paragraph (a)(4)(ii) of this section, from December 2, 2020, through December 31, 2021, for

purposes of determining whether a Board-regulated institution satisfies the criterion in paragraph (a)(2)(ii) of this section, the total consolidated assets of a Board-regulated institution for purposes of paragraph (a)(2)(ii) of this section shall be determined based on the lesser of:

(A) The total consolidated assets reported by the institution in the Call Report, FR Y-9C, or FR Y-9SP, as applicable, as of December 31, 2019; and

(B) The total consolidated assets calculated in accordance with the reporting instructions to the Call Report or to Form FR Y-9C, as applicable, as of the end of the most recent calendar quarter.

(ii) The relief provided under this paragraph (a)(4)(i) does not apply to a Board-regulated institution if the Board determines that permitting the Board-regulated institution to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the Board-regulated institution. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the Board-regulated institution since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the Board-regulated institution has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the Board-regulated institution. In making a determination pursuant to this paragraph (a)(4)(ii), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

(b) *Calculation of the leverage ratio.* A qualifying community banking organization's leverage ratio is calculated in accordance with §217.10(b)(4), except that a qualifying community banking organization is not required to:

(1) Make adjustments and deductions from tier 2 capital for purposes of §217.22(c); or

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(2) Calculate and deduct from tier 1 capital an amount resulting from insufficient tier 2 capital under § 217.22(f).

(c) *Treatment when ceasing to meet the qualifying community banking organization requirements.* (1) Except as provided in paragraphs (c)(5) and (6) of this section, if an Board-regulated institution ceases to meet the definition of a qualifying community banking organization, the Board-regulated institution has two reporting periods under its Call Report or Form FR Y-9C, as applicable (grace period) either to satisfy the requirements to be a qualifying community banking organization or to comply with § 217.10(a)(1) and report the required capital measures under § 217.10(a)(1) on its Call Report or its Form FR Y-9C, as applicable.

(2) The grace period begins as of the end of the calendar quarter in which the Board-regulated institution ceases to satisfy the criteria to be a qualifying community banking organization provided in paragraph (a)(2) of this section. The grace period ends on the last day of the second consecutive calendar quarter following the beginning of the grace period.

(3) During the grace period, the Board-regulated institution continues to be treated as a qualifying community banking organization for the purpose of this part and must continue calculating and reporting its leverage ratio under this section unless the Board-regulated institution has opted out of using the community bank leverage ratio framework under paragraph (a)(3) of this section.

(4) During the grace period, the qualifying community banking organization continues to be considered to have met the minimum capital requirements under § 217.10(a)(1), the capital ratio requirements for the well capitalized capital category under § 208.43(b)(1)(i)(A) through (D) of this chapter, and any other capital or leverage requirements to which the qualifying community banking organization is subject, and must continue calculating and reporting its leverage ratio under this section.

(5) Notwithstanding paragraphs (c)(1) through (4) of this section, a Board-regulated institution that no longer meets the definition of a qualifying commu-

nity banking organization as a result of a merger or acquisition has no grace period and immediately ceases to be a qualifying community banking organization. Such a Board-regulated institution must comply with the minimum capital requirements under § 217.10(a)(1) and must report the required capital measures under § 217.10(a)(1) for the quarter in which it ceases to be a qualifying community banking organization.

(6) Notwithstanding paragraphs (c)(1) through (4) of this section, a Board-regulated institution that has a leverage ratio of 8 percent or less does not have a grace period and must comply with the minimum capital requirements under § 217.10(a)(1) and must report the required capital measures under § 217.10(a)(1) for the quarter in which it reports a leverage ratio of 8 percent or less.

[Reg. Q. 84 FR 61797, Nov. 13, 2019, as amended at 85 FR 77361, Dec. 2, 2020]

### §§ 217.13–217.19 [Reserved]

## Subpart C—Definition of Capital

### § 217.20 Capital components and eligibility criteria for regulatory capital instruments.

(a) *Regulatory capital components.* A Board-regulated institution's regulatory capital components are:

- (1) Common equity tier 1 capital;
- (2) Additional tier 1 capital; and
- (3) Tier 2 capital.

(b) *Common equity tier 1 capital.* Common equity tier 1 capital is the sum of the common equity tier 1 capital elements in this paragraph (b), minus regulatory adjustments and deductions in § 217.22. The common equity tier 1 capital elements are:

(1) Any common stock instruments (plus any related surplus) issued by the Board-regulated institution, net of treasury stock, and any capital instruments issued by mutual banking organizations, that meet all the following criteria: